

UNITED STATES DISTRICT COURT

for the

Northern District of Iowa

United States of America

v.

ALI AFIF AL HERZ

Case No.

15-mj-00137

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of between about August 2014 and present date in the county of Linn in the
Northern District of Iowa, the defendant(s) violated:

Code Section

18 USC Section 922(e)

Offense Description

delivering or providing a package or container to a common carrier without
providing written notice that firearms and ammunition are contained therein

18 USC Section 371

conspiracy

This criminal complaint is based on these facts:

See attached Affidavit.

☒ Continued on the attached sheet.



Complainant's signature

Christopher S. Cantrell, Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date:

May 11, 2015

City and state:

Cedar Rapids, Iowa



Judge's signature

Linda R. Reade, Chief Judge, U.S. District Court

Printed name and title

AFFIDAVIT

I, Christopher S. Cantrell, Special Agent of the United States Department of Homeland Security, Immigration and Customs Enforcement, Homeland Security Investigations ("Homeland Security"), being duly sworn, depose and state that:

Introduction

1. I am a Special Agent with the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI) and am empowered by law to conduct investigations of and to make arrests for offenses enumerated in Section 2516 of Title 18, United States Code.
2. I have been a Special Agent with Homeland Security since 2003. I have been a federal law enforcement officer of ICE or its predecessor, the Immigration and Naturalization Service, for over twenty years. Your affiant graduated from the Border Patrol Academy at the Federal Law Enforcement Training Center (FLETC), Glynnco, Georgia, in February of 1995. In 2004, I completed the (ICE) Immigration Special Agent Cross-Training, which specifically addressed investigations of violations of the Customs Act and the International Traffic in Arms Regulations.
3. Law enforcement officers, including your affiant, are involved in an investigation of criminal acts being carried out by individuals including, but not limited to, Ali Afif AL HERZ, Bassem HERZ, Sarah ZEAITER, and Adam Ben Ali AL HERZ (hereinafter "the four individuals"). These offenses include delivering or providing a package or container to a common carrier without

providing written notice that firearms and ammunition are contained therein (18 USC § 922(e)) and conspiracy (18 USC § 371) (hereinafter “the target offenses”).

4. This affidavit is being submitted in support of an application for a criminal complaint relating to the target offenses. This affidavit does not contain all information known to me concerning the pending investigation, but only information believed to be sufficient to support a finding of probable cause to support the complaint and to issue an arrest warrant for each of the four individuals.
5. Your affiant learned the information set out below from a variety of sources, including: your affiant’s personal participation in the investigation; information received from other law enforcement agencies participating in the investigation; a review of records relating to the investigation; and from information provided by one or more confidential source(s).

Summary of Facts

6. In about February 2015, a federal firearms licensee (FFL) (hereafter “the informant”), who operates a gun store in Eastern Iowa, expressed concern about three men and a woman who had purchased several guns from the informant several months earlier at the informant’s store and, at the same time, purchased all of the 5.7mm ammunition the informant had in the informant’s store. The informant estimated that during this transaction and another transaction on a later date described below, the group purchased a total 2,000 to 3,000 rounds of 5.7mm ammunition. The informant became

concerned when the informant observed some of the same individuals purchase about 20 firearms at a gun show in Eastern Iowa in late 2014 or early 2015.

7. On about February 19, 2015, the same three men referenced above by the informant returned to the informant's store and purchased more firearms, and again purchased all of the 5.7 mm ammunition in the store. During this visit, one of the men, Ali Afif AL HERZ (hereafter "Ali HERZ"), made a request to purchase firearms accessories, including twenty (20) collapsible butt stocks for AR style rifles. The informant reported that during this visit, Ali HERZ referred to a text message, which appeared to have been written in a foreign language, located on Ali HERZ's phone. The informant believed the text message advised Ali HERZ as to what accessories to purchase. The informant provided the telephone number for Ali HERZ's phone, (319) 241-XXXX.
8. A review of the Informant's business records showed the four individuals about whom the informant had expressed concern were: Ali HERZ; Adam Ben Ali AL-HERZ; Bassem HERZ; and Sarah Majid ZEAITER.
9. Ali HERZ, 50 years old, is a naturalized citizen of the United States, having been born in Lebanon. Records show Ali HERZ shipped a vehicle to Lebanon in about 2003. Records also show over 25 inbound and outbound United States border crossings for Ali HERZ. Records also show that on about December 2, 2014, Ali HERZ entered the United States from overseas and had about \$61,400 in currency on his person.

10. Adam Ben Ali AL HERZ (hereafter "Adam HERZ"), 22 years old, was born in the United States and is the son of Ali HERZ. Adam HERZ has crossed the United States border about 15 times. Records show Adam HERZ was questioned in secondary inspection twice, in May 2012 and May 2014. Both times, HERZ claimed to be returning from Lebanon, after visiting for three, and two, months, respectively.
11. Bassem Afif HERZ (hereafter "Bassem HERZ"), 29 years old, is a United States citizen but was born in Kuwait. Bassem HERZ is Ali HERZ's brother. Records also show Bassem HERZ has made many trips outside the United States beginning in about 2003. Records show Bassem HERZ has previously shipped "water equipment," "a bulldozer," "front end loader," and an "SUV" to Lebanon. Bassem HERZ traveled from Cedar Rapids, Iowa, to Lebanon and returned to Cedar Rapids, Iowa, in March 2015.
12. Sarah Majid ZEAITER (hereafter "ZEAITER"), 24 years old, is a lawful permanent resident of the United States who was born in Lebanon. ZEAITER is the spouse of Bassem HERZ.
13. Records checks conducted on the four individuals revealed no criminal convictions for any of the subjects that would disqualify them from being able to purchase firearms or ammunition. However, none of the four individuals are licensed to sell firearms or appear to be licensed to export firearms from the United States.
14. The four individuals purchased at least 19 firearms (including a mix of handguns and rifles) between about June 2014 and February 2015 from the

informant. Additionally, Ali HERZ ordered parts to assemble fifteen (15) AR-style assault rifles from the informant. Ali HERZ took delivery of the rifle parts on about March 12, 2015.

15. A review of records obtained from a few other gun stores in the surrounding area in Eastern Iowa led to the determination that the four individuals have purchased at least one hundred thirteen (113) firearms from licensed gun stores in Iowa over about the past seventeen (17) months. This does not include any firearms that may have been purchased from any of the numerous other FFL licensees in Eastern Iowa whose records have not been examined; or from private firearms sellers who may have sold guns to the four individuals. The known firearms appear to have been purchased at retail value.
16. It is estimated the total value of firearms thus far identified as having been purchased by the four individuals over the past seventeen (17) months exceeds \$100,000.
17. Subsequent records checks conducted by HSI agents, in an effort to determine whether the guns were being shipped or resold, revealed that between about August 8, 2014, and September 4, 2014, "Herz Enterprises" shipped a container (hereafter "Container 1") reported to contain "Bobcat, Dressen Trailer, Bobcat, Bobcat" from the United States to Beirut, Lebanon. "Adam HERZ" was listed as the point of contact for the shipment.
18. On about March 24, 2015, HSI Special Agents checked records of international outbound cargo shipments and discovered another freight

container (hereafter "Container 2") consigned for shipment to Beirut, Lebanon, from the United States. Records concerning the shipment showed the exporter was "Herz Enterprises, Adam Herz, XXXX Catskill SW, Cedar Rapids, Iowa, (319) 775-XXXX."

19. On about March 26, 2015, an outbound cargo inspection of Container 2 was conducted after Container 2 was intercepted at the controlled seaport at/near Norfolk, Virginia. This inspection revealed fifty-three (53) firearms, firearms parts and accessories, and more than 6800 rounds of ammunition hidden within three "Bobcat" skid loaders inside the container. Generally, the firearms had been removed from their customary packaging and wrapped in plastic bags.¹ Only a limited amount of customary firearms packaging of the sort described herein was seized from Container 2.
20. Container 2 also held a piano and boxes and bins filled with clothing, shoes, honey, and household supplies. Some of the boxes bore "Midamar" branding and had "Syria" written on them. The skid loaders, ammunition, and firearms were seized. The seized items included a Desert Eagle .50 caliber pistol and .50 caliber AE ammunition.
21. Subsequent investigation showed the shipping arrangements for Container 2 were apparently made by an employee of Midamar Corporation (hereafter "Midamar"), 1105 60th Avenue SW, Cedar Rapids, Iowa, with Container 2 to

¹ Many of the firearms were found to be concealed in white plastic bags with red printing on the outside. Those bags appear to be similar, if not the same as the white plastic bags known to be used by the Pizza Daddy business at 1539 1st Avenue, SE, Cedar Rapids, Iowa, and include the words "thank you" printed on the bags in red print.

be shipped by truck (hereafter “the trucking company”), using common contract carriers to transport the container, from Midamar on about March 12, 2015, to Chicago, for placement on a train. Container 2 was then delivered in the United States by rail to the seaport at Norfolk, Virginia. Container 2 was then to be placed on a ship for its final destination of Beirut, Lebanon.

22. The dock receipt from the port at Norfolk showed the exporter as “Elissar, Inc.², 1536 1st Avenue South East, Cedar Rapids, Iowa.” The telephone number for the exporter is 319-491-XXXX, to the attention of “Bassem Herz.” This phone number is known to be used by Bassem HERZ.
23. The trucking company Bill of Lading showed the shipper as “Sarah Zeaiter, 1539 First Avenue, SE, Cedar Rapids, Iowa” with a phone number of “(319) 538-XXXX.”
24. Records obtained from freight forwarder show two of the bobcats found in Container 2 were billed and shipped to “Elissar Inc., 1539 1st Ave. SE, Cedar Rapids, Iowa” with a phone number of (319) 491-XXXX. The bottom of the bill of sale appears to be signed in the name “Bassem” and with the printed name “Bassem Herz.” The receipt shows the bobcats were to be shipped to Iowa, with a freight cost of \$500.
25. According to information provided by the FBI, the two bobcats purchased from Bobcat of St. Louis were consigned to Sarah ZEAITER at 1539 1st Ave

² According to online records from the Iowa Secretary of State, Elissar, Inc., was incorporated in 2008 with a registered agent of “Maitham Herz, 1539 1st Avenue SE, Cedar Rapids, IA.” The home office address is listed as “1539 1st Avenue SE, Cedar Rapids, IA.” The business operates under the name of “Pizza Daddy.”

SE, and were shipped on February 11, 2015. The bobcats were delivered to Cedar Rapids, Iowa, on about February 12, 2015.

26. The third bobcat discovered in Container 2 was determined to have been purchased in Illinois. The bill of sale for that bobcat showed it was sold for \$8000 in cash to Elissar, Inc., with a buyer's address of 1539 1st Avenue South East, Cedar Rapids, Iowa, 52402.
27. On about March 31, 2015, an online records check conducted by HSI agents showed that the exporter, or "U.S. Principal Party in Interest", concerning Container 2 had apparently been changed by the exporter to reflect a point of contact of "Bassem Herz," with an address of "1105 60th Avenue SW, Cedar Rapids, IA 52405, US."
28. A subsequent search of online public records resulted in discovery of the following internet posting, dated "February 24" (2015):

CRITICAL CLOTHING DRIVE FOR SYRIA AND LEBANON

Midamar is organizing a clothing drive to add as items to an equipment container leaving to Lebanon March 10. Accepted will be boxes of clean clothing, good shoes, bedding and blankets, etc. for the refugees from Syria and the region stranded in Lebanon. Donations can be delivered to Midamar, 1105 -60th Ave SW, Cedar Rapids any time between 8:00 a.m. and 4:30 p.m. M-F or by arrangement Saturday or Sunday morning before noon. Articles should be packed in sturdy cartons with a plastic liner, and a list of articles written on each carton.

Email: XXXXXXXX@midamar.com
Ph: 319-362-XXXX x1110
Cell: 319-533-XXXX

29. The email address XXXXXXXX@midamar.com, is known to be the email address of William B. Aossey, Jr. (hereafter "Aossey"). The phone number (319) 362-XXXX is the published phone number for Midamar. The address "1105 60th Ave. SW, Cedar Rapids, Iowa," is known to be the address of the headquarters, warehouse, and shipping facility of Midamar. AT&T records show the cell phone number (319) 533-XXXX is subscribed to by Midamar, with the user being "Bill Aossey, Sr."
30. On May 6, 2015, law enforcement learned that one or more of the persons associated with the Container 2 shipment had made arrangements for a shipping container bearing identification number TEMU7027230 (hereafter "Container 3") to be shipped from Midamar in Cedar Rapids, Iowa, on about May 6, 2015.
31. Later on May 6, 2015, law enforcement officers observed Ali HERZ, and others, loading items into a U-Haul truck, and loading a Bobcat skid steer onto a trailer attached to the truck, at Ali HERZ's residence at XXXX Wilder Drive SE, in Cedar Rapids, Iowa. The truck and trailer containing the Bobcat were then driven to Midamar, by Adam HERZ, where Container 3 was already positioned on a trailer backed into a loading dock at Midamar. Container 3 and the trailer on which Container 3 sat were attached to a semi-tractor belonging to the trucking company. Ali HERZ and Adam HERZ were both observed assisting with the loading and transportation of various items including a Bobcat skid steer.

32. Subsequently on May 7, 2015, law enforcement surveillance units observed Adam HERZ arrive at Midamar in his personal vehicle. Surveillance units observed the Adam HERZ drive the U-Haul truck and trailer from Midamar to A-1 Rentals in Cedar Rapids, Iowa.
33. On about May 7, 2015, HSI learned from U.S. Customs and Border Protection (CBP) that Container 3 was being shipped by Herz Enterprises, with a contact of "Adam Herz, XXXX Catskill Street SW, Cedar Rapids Iowa," and a phone number of (319) 775-XXXX. Adam Herz is known to be the subscriber to this phone number.
34. On about May 8, 2015, HSI received a copy of the Bill of Lading concerning Container 3. According to the information on the top of the form, "Herz Enterprises, XXXX Wilder Drive SE, Cedar Rapids, IA," was intending to ship two "Bobcat Skidloaders," household goods, and Miscellaneous equipment to Beirut, Lebanon. On the bottom of the form, the shipper was listed as "Midamar Corp." and the form stated: "REMIT C.O.D. TO: Midamar Corp." The bottom of the form also stated: "Per: Ali Herz."
35. On May 8, 2015, law enforcement officers searched Container 3 pursuant to a federal search warrant. Ninety nine (99) firearms, over 9500 rounds of ammunition, and various firearms parts and accessories were found within Container 3. Many of the firearms were found concealed with the two Bobcat slid loaders. Less than half of the firearms and accessories seized from Container 3 were contained within their customary packaging. Ammunition and firearms were also found to be concealed within suitcases and boxes

containing clothing. Shipping labels found on boxes within the subject container revealed the boxes had been previously used to ship items to Ali HERZ and Adam HERZ.

36. A total of about 152 firearms were seized from Container 2 and Container 3. Approximately, sixty-six (66) of these firearms are known to have been purchased by the four individuals³. At least forty-seven (47) firearms known to have been purchased by one of the four individuals between about December 18, 2013, and the present date, were not located in the search of either Container 2 or Container 3 and remain unaccounted for.
37. The number firearms thus far known to have been purchased by the four individuals (including those seized and not yet seized) between about December 2013 and February 2015 are depicted in the chart below.

Name	First Purchase	Last Purchase	# Firearms Purchased
HERZ, Adam	5/20/2014	2/27/2015	19
HERZ, Adam	12/18/2014	1/20/2015	7
HERZ, Ali	12/27/2013	3/12/2015	39
HERZ, Ali	12/18/2013	12/18/2013	3
HERZ, Ali	7/5/2014	2/26/2015	9
HERZ, Bassem	12/18/2014	2/23/2015	9
HERZ, Bassem	12/18/2014	2/25/2015	6
HERZ, Bassem	12/19/2013	7/14/2014	13
HERZ, Bassem	12/27/2013	12/27/2013	4
ZEAITER, Sarah	2/23/2015	2/23/2015	1
ZEAITER, Sarah	7/14/2014	7/14/2014	3

³ Ali HERZ is known to have purchased thirty-four (34) of the seized firearms. Adam HERZ is known to have purchased sixteen (16) of the seized firearms. Bassem HERZ is known to have purchased fifteen (15) of the seized firearms. Sarah ZEAITER is known to have purchased one (1) of the seized firearms.

38. No written notice was provided to the common contract carriers that shipped Container 2 and Container 3 advising that the containers included firearms and ammunition.

39.

- a. On January 3, 2014, an \$11,000 check from Bassem HERZ was deposited into ZEAITER's Wells Fargo checking account ending in 7252.
- b. On November 14, 2014, a wire transfer appearing to have been initiated via a bank in Beirut, Lebanon in the amount of \$44,965 was deposited into ZEAITER's Wells Fargo checking account ending in 7252.
- c. On about December 8, 2014, ZEAITER appears to have drafted check 1052 in the amount of \$1643.52 against her Wells Fargo checking account ending in 7252 to a federal firearms licensee. The check memo appears to say "50 AE AMMO (heider 20)."⁴
- d. On about December 8, 2014, ZEAITER appears to have drafted check 1053 in the amount of \$2480 against her Wells Fargo checking account ending in 7252 to a federal firearms licensee in North Dakota. The check memo appears to say "50 AE AMMO (heider 20)."

⁴ This appears to be a reference to .50 caliber ammunition. Your affiant is aware that 50 AE ammunition is the type of ammunition fired from the .50 caliber Desert Eagle pistol.


- e. On about February 9, 2015, \$18,000 was wired from ZEAITER's Wells Fargo checking account ending in 7252 to "Bobcat of St. Louis." This appears to have been payment for the purchase of two of the bobcats found in Container 2.
- f. On about February 23, 2015, \$10,500 was wired from ZEAITER's Wells Fargo checking account ending in 7252 to a business in Illinois. A note on the wire transfer record associated with this wire transfer indicates the wire transfer is for the purpose of "buying bobcat." This appears to have been payment for the purchase of another bobcat.
- g. Ali HERZ has, between about July 3, 2013, and March 9, 2015, sent and received wire transfers having a total value in excess of \$160,000, to include wire transfers to and from Lebanon including a wire transfer is detailed below:
 - i. On about December 3, 2014, Ali HERZ received a wire transfer in the amount of \$49,965 from Herz ali Afif in Lebanon. A note associated with the wire transfer, which appears to be from the bank that originated the wire transfer, states "purchase industrial equipments."

40. Based upon the foregoing information, your affiant respectfully submits that there is probable cause to believe that Ali Afif AL HERZ, Bassem HERZ, Sarah ZEAITER, and Adam Ben Ali AL HERZ conspired to deliver and providing a package and container to a common carrier without providing written notice that firearms and ammunition were contained therein, in violation of 18 USC § 922(e) and 18 USC § 371.

Dated this 11th day of May, 2015.


CHRISTOPHER CANTRELL
Special Agent
Immigration and Customs Enforcement
Homeland Security Investigations

Sworn to before me by phone this 11th day of May, 2015.


LINDA R. READE, Chief Judge
United States District Court
Northern District of Iowa