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CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
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SEALED

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

CR08-0535 PHX-SRB(DK)

United States of America,

Plaintiff,

v.

Joe L. Gordwin,

Defendant.

INDICTMENT

Violations:

18 U.S.C. §§ 1343 and 1346
(Wire Fraud Involving A Scheme To
Deprive Others Of The Intangible Right Of
Honest Services)

18 U.S.C. § 1001
(False Statement)

18 U.S.C. § 1512(b)(3)
(Witness Tampering)

18 U.S.C. § 2
(Aiding and Abetting and Causing An Act
To Be Done)

THE GRAND JURY CHARGES:

INTRODUCTION

1. At all times relevant to this indictment, defendant JOE L. GORDWIN ("GORDWIN") was a public official employed as a Special Agent with the Federal Bureau of Investigation ("FBI"), a department and agency of the United States.

2. At all times relevant to this indictment, the FBI had rules, regulations, and standards of conduct governing the conduct of FBI agents, including the following:

a. The FBI Manual of Administrative Operations and Procedures ("MAOP"). The MAOP Part I, Section 1-1(9) required all FBI Special Agents to abide by the "fundamental rules of ethical services" in Executive Order 12674 dated April 12, 1989. Those ethical rules

1 were also listed in section 2635.101 of Title 5 of the Code of Federal Regulation, and included
2 the following:

3 (a) Public service is a public trust, requiring employees to place loyalty to the
4 Constitution, the laws, and ethical principles above private gain.

5 (b) Employees shall not hold financial interests that conflict with the conscientious
6 performance of duty.

7 * * *

8 (e) Employees shall put forth honest efforts in the performance of their duties.

9 * * *

10 (j) Employees shall not engage in outside . . . activities . . . that conflict with
11 official Government duties and responsibilities.

12 (k) Employees shall disclose waste, fraud, abuse and corruption to appropriate
13 authorities.

14 * * *

15 (n) Employees shall endeavor to avoid any actions creating the appearance that
16 they are violating the law or ethical standards.

17 b. The FBI Manual of Investigative Operations and Guidelines ("MIOG"). The
18 MIOG Part I, Section 137-2 provided the following definition:

19 * * *

20 (3) CONFIDENTIAL INFORMANT (CI) – A CI is any individual who provides
21 useful and credible information to the FBI regarding felonious criminal
22 activities, and from whom the FBI expects or intends to obtain additional
23 useful and credible information regarding such activities in the future.

24 c. The MIOG Part I, Section 137-9, stated that "[i]t is the policy of the FBI to
25 protect the identities of its CIs from disclosure to the maximum extent permitted by law and
26 regulation and sound public policy. . . . [Disclosure] should only be approved when necessary to
27 achieve important investigative and public policy goals." To disclose the identity of an FBI
28 confidential informant to someone outside the FBI, an FBI Special Agent needs the permission of

1 the Assistant Special Agent in Charge ("ASAC") of the FBI Special Agent's Office.

2 d. Defendant GORDWIN's 2003 FBI Employment Agreement. On or about June
3 30, 2003, defendant GORDWIN signed an FBI Employment Agreement, which contained
4 language similar to the FBI Employment Agreement he signed in or about September 1997. In
5 signing the 2003 agreement, defendant GORDWIN acknowledged the importance of not
6 disclosing confidential FBI material and agreed to be bound by the 2003 Agreement's terms,
7 including:

8 (1) Unauthorized disclosure, misuse, or negligent handling of information
9 contained in the files of the FBI or which I may acquire as an employee of the FBI
10 could . . . place human life in jeopardy, . . . prevent the FBI from effectively
11 discharging its responsibilities, or violate federal law. I understand that by being
12 granted access to such information, I am accepting a position of special trust and I
13 am obligated to protect such information from unauthorized disclosure.

14 * * *

15 (3) I will not reveal, by any means, any information or material from or related to
16 FBI files or any other information acquired by virtue of my official employment to
17 any unauthorized recipient without official written authorization by the FBI.

18 * * *

19 (6) Violations of this employment agreement may . . . subject me to criminal
20 sanction, [and] disciplinary action by the FBI, including dismissal[.]

21 3. At all times relevant to this indictment, federal law had rules, regulations, and
22 standards of conduct governing the conduct of FBI Special Agents, including the following:

23 a. Section 45.2 of Title 28 of the Code of Federal Regulation mandated that no
24 FBI Special Agent shall participate in a criminal investigation or prosecution if he had a personal
25 relationship with:

26 (1) Any person or organization substantially involved in the conduct that is the
27 subject of the investigation or prosecution; or

28 (2) Any person or organization which he knows has a specific and substantial

1 interest that would be directly affected by the outcome of the investigation or
2 prosecution.

3 If an FBI Special Agent assigned to or otherwise participating in a criminal
4 investigation or prosecution believed that his participation may be prohibited by this section, the
5 FBI Special Agent "shall report the matter and all attendant circumstances to his supervisor at the
6 level of section chief or the equivalent or higher."

7 b. Sections 1344 and 1349 of Title 31 of the United States Code provided that
8 FBI vehicles were to be used for official business only, and that an FBI Special Agent who
9 willfully misused a government vehicle shall be suspended without pay for at least one month,
10 and when circumstances warrant, for a longer period, or summarily removed from office.

11 4. The Department of Justice's Office of Inspector General ("DOJ-OIG") conducted
12 independent investigations of FBI Special Agents alleged to have engaged in criminal
13 wrongdoing.

14 5. In or about September 2000, defendant GORDWIN began working on an FBI gang
15 investigation titled "Lonely Heights" ("Lonely Heights Investigation"), which included a target
16 named "B.M."

17 6. During the course of the Lonely Heights Investigation, defendant GORDWIN used
18 the services of an FBI confidential informant ("FBI confidential informant").

19 7. In or about June 2002, defendant GORDWIN arrested B.M. in connection with the
20 Lonely Heights Investigation.

21 8. In or about August 2002, defendant GORDWIN interviewed B.M.'s wife, S.S., about
22 information relating to the Lonely Heights Investigation.

23 9. On or about January 6, 2003, B.M. pled guilty to aggravated robbery in connection
24 with a Maricopa County indictment stemming from the FBI's Lonely Heights Investigation.

25 10. On or about January 14, 2003, B.M. was sentenced to eighteen months in prison for
26 his January 6, 2003 aggravated robbery conviction.

27 11. In or about December 2004, defendant GORDWIN provided information to the
28 Scottsdale Police Department ("SPD") that B.M., who had been released from jail in or about

1 January 2004, was committing new crimes. Defendant GORDWIN then participated in the
2 SPD's investigation into B.M.

3 12. On or about January 19, 2005, SPD Officers arrested B.M., B.M.'s stepson D.C., and
4 others, after they committed an armed robbery of a Radio Shack ("Radio Shack Robbery"). After
5 the arrests, Defendant GORDWIN participated in the Radio Shack Robbery Investigation and
6 criminal case.

7 13. On or about October 20, 2005, D.C. pled guilty to attempted armed robbery in
8 connection with an amended Maricopa County indictment stemming from his arrest after the
9 Radio Shack Robbery, and was sentenced to a five-year term of probation.

10 14. On or about June 5, 2006, B.M. pled guilty to armed robbery in connection with a
11 Maricopa County indictment for his role in the Radio Shack Robbery, and was sentenced to
12 fifteen years in prison.

13 15. S.S. was married to B.M. during the Lonely Heights Investigation and filed for
14 divorce in late 2004.

15 16. S.S. is D.C.'s mother.

16 17. Paragraphs 1 through 16 of the Introduction are incorporated by reference into each
17 count of the Indictment.

COUNTS ONE THROUGH SIX

[18 U.S.C. §§ 1343 and 1346; 2]

A. THE SCHEME TO DEFRAUD

Beginning in or about October 2002, and continuing through on or about February 7, 2006, in Maricopa County, within the District of Arizona, and elsewhere, defendant GORDWIN knowingly and with intent to defraud, devised, participated in, and executed a scheme to defraud, that is, to deprive the FBI and the citizens of the United States of their right to defendant GORDWIN's honest services, including:

1. Their right to be informed of all relevant facts and circumstances concerning potential sources of improper influence on defendant GORDWIN as an FBI Special Agent, including any potential and actual conflicts of interest;

2. Their right to defendant GORDWIN's honesty and loyalty, including their right to have defendant GORDWIN represent their interests, instead of the interests of defendant GORDWIN, S.S., B.M., and D.C.; and

3. Their right to have defendant GORDWIN investigate crimes and make sentencing requests free from disqualifying conflicts of interest.

Specifically, defendant GORDWIN engaged in an improper intimate relationship with S.S. in violation of federal law and FBI rules, concealed the improper intimate relationship from the FBI to preserve his position at the FBI and the improper intimate relationship, sought a favorable plea agreement for B.M. in connection with the Radio Shack Robbery to prevent B.M. from disclosing the improper intimate relationship, misused and abused his government position, tampered with witnesses, and obstructed the investigation into the improper intimate relationship.

B. THE EXECUTION OF THE SCHEME

In carrying out this scheme, defendant GORDWIN engaged in, and caused others to engage in, one or more of the following fraudulent and deceptive acts, practices, and devices, among others:

1. Despite his obligation to disclose the improper intimate relationship, defendant GORDWIN concealed this relationship from the FBI, the Scottsdale Police Department, and the

1 Maricopa County District Attorney's Office.

2 2. Throughout the duration of the relationship, because defendant GORDWIN was
3 married and could not engage in the improper intimate relationship with S.S. at defendant
4 GORDWIN's home, defendant GORDWIN and S.S. engaged in their improper intimate
5 relationship in other locations, including motels and defendant GORDWIN's FBI-issued
6 vehicles.

7 3. Beginning in or about late 2002 and continuing throughout the improper intimate
8 relationship, defendant GORDWIN expressed to S.S. his concern that the FBI would learn about
9 their improper intimate relationship and that defendant GORDWIN would then be fired.

10 4. In or about late 2002 or early 2003, defendant GORDWIN and S.S. discussed what
11 sentence B.M. should receive in connection with B.M.'s arrest during the Lonely Heights
12 Investigation. Defendant GORDWIN initially stated that a five-year sentence would be
13 appropriate, while S.S. felt that a lighter sentence, of twelve to eighteen months, would be
14 appropriate.

15 5. In or about late 2002 or early 2003, defendant GORDWIN recommended to the
16 Maricopa County prosecutor on B.M.'s Lonely Heights case that B.M. receive a sentence of
17 twelve months to eighteen months.

18 6. In or about January 2005, defendant GORDWIN learned from an SPD Detective
19 ("SPD Detective") that the SPD Detective wanted to obtain a search warrant for various locations
20 associated with B.M., in an attempt to obtain evidence of B.M.'s recent criminal activities. The
21 SPD Detective wanted to use defendant GORDWIN's name and S.S.'s name, in an affidavit
22 establishing probable cause for the search warrant, as having provided relevant information on
23 B.M.'s recent criminal activity. Defendant GORDWIN told the SPD Detective that defendant
24 GORDWIN did not want the SPD Detective to use either defendant GORDWIN's name or S.S.'s
25 name in an affidavit supporting the search warrant. The SPD Detective agreed to not put their
26 names in an affidavit and did not obtain the search warrant. Defendant GORDWIN failed to
27 disclose material information to the SPD Detective, including the improper intimate relationship
28 and that it was affecting his actions in the ongoing investigation into B.M.

1 7. In or about January 2005, defendant GORDWIN learned from the SPD Detective
2 that the SPD had obtained a sealed court order authorizing the installation of a GPS tracking
3 device on B.M.'s Lincoln Navigator ("Lincoln Navigator"), which was suspected of being used
4 by B.M. in criminal activity. Defendant GORDWIN failed to disclose material information to
5 the SPD Detective, including the improper intimate relationship and that it was affecting his
6 actions in the ongoing investigation into B.M.

7 8. In or about January 2005, defendant GORDWIN improperly disclosed to S.S. the
8 existence of the sealed court order authorizing the installation of a GPS tracking device on the
9 Lincoln Navigator.

10 9. In or about January 2005, before B.M. was arrested for the Radio Shack robbery,
11 defendant GORDWIN mentioned to the SPD Detective that B.M. had alleged that defendant
12 GORDWIN and S.S. were having an improper intimate relationship. Defendant GORDWIN
13 failed to disclose material information to the SPD Detective, including the improper intimate
14 relationship and that it was affecting his actions in the ongoing investigation into B.M.

15 10. In or about January 2005, defendant GORDWIN contacted the FBI confidential
16 informant and asked the FBI confidential informant for a favor. Defendant GORDWIN asked the
17 FBI confidential informant if defendant GORDWIN could use the FBI confidential informant's
18 name as the source of the information regarding B.M.'s recent criminal activities, even though
19 S.S. had actually provided the information. Defendant GORDWIN acknowledged that he was
20 involved in the improper intimate relationship with S.S., and stated that he did not want to use
21 S.S.'s name in any FBI reports as the source of information.

22 11. On or about January 19, 2005, immediately after SPD Officers arrested B.M., D.C.,
23 and others for the Radio Shack Robbery, defendant GORDWIN called S.S., and informed her of
24 the arrests and where the arrests had occurred. S.S. then went to the scene of the arrests.

25 12. On or about March 12, 2005, defendant GORDWIN prepared a case-review report
26 for his work on the Radio Shack Robbery Investigation in preparation for his 90-day case-review
27 meeting with his FBI Supervisor. On that case-review report, defendant GORDWIN wrote that
28 "recently info was provided to Scottsdale regarding [B.M.] and his crew regarding armed

1 robberies done by his crew.” Defendant GORDWIN failed to disclose material information in
2 that case-review report, including:

- 3 a. the improper intimate relationship;
- 4 b. that the improper intimate relationship was affecting, and had previously
5 affected, his actions in the Radio Shack Robbery Investigation; and
- 6 c. that the improper intimate relationship had affected his actions in the Lonely
7 Heights Investigation.

8 13. On or about March 12, 2005, defendant GORDWIN met with his FBI Supervisor
9 for defendant GORDWIN’s 90-day case-review meeting to discuss defendant GORDWIN’s
10 ongoing cases. Defendant GORDWIN failed to disclose material information to his FBI
11 Supervisor, including:

- 12 a. the improper intimate relationship;
- 13 b. that the improper intimate relationship was affecting, and had previously
14 affected, his actions in the Radio Shack Robbery Investigation; and
- 15 c. that the improper intimate relationship had affected his actions in the Lonely
16 Heights Investigation.

17 14. On or about June 13, 2005, defendant GORDWIN prepared a case-review report for
18 his work on the Radio Shack Robbery Investigation in preparation for his 90-day case-review
19 meeting with his FBI Supervisor. On that case-review report, defendant GORDWIN wrote that
20 “SA Gordwin met with [B.M.] who is a Blood gang [member.] [B.M.] is in jail awaiting trial on
21 robbery charges. [B.M.] is currently providing Gordwin intelligence that he received while in
22 jail.” Defendant GORDWIN failed to disclose material information in that case-review report,
23 including:

- 24 a. the improper intimate relationship;
- 25 b. that the improper intimate relationship was affecting, and had previously
26 affected, his actions in the Radio Shack Robbery Investigation; and
- 27 c. that the improper intimate relationship had affected his actions in the Lonely
28 Heights Investigation.

1 15. On or about June 13, 2005, defendant GORDWIN met with his FBI Supervisor for
2 defendant GORDWIN's 90-day case-review meeting to discuss defendant GORDWIN's ongoing
3 cases. Defendant GORDWIN failed to disclose material information to his FBI Supervisor,
4 including:

- 5 a. the improper intimate relationship;
- 6 b. that the improper intimate relationship was affecting, and had previously
7 affected, his actions in the Radio Shack Robbery Investigation; and
- 8 c. that the improper intimate relationship had affected his actions in the Lonely
9 Heights Investigation.

10 16. In or about June 2005 and July 2005, defendant GORDWIN met with D.C. in the
11 Maricopa County Jail on several occasions. During these meetings, defendant GORDWIN
12 informed D.C. that defendant GORDWIN could secure a favorable plea deal for D.C. if D.C.
13 could help defendant GORDWIN find a fugitive wanted for several crimes ("fugitive"). During
14 at least one of these meetings, defendant GORDWIN told D.C. something to the effect of "it
15 would be best if you did not mention to anyone that I visited with you."

16 17. In or about July 2005, defendant GORDWIN, despite knowing that FBI regulations
17 precluded him from doing so, disclosed to S.S. the identity of the FBI confidential informant,
18 told S.S. that the FBI confidential informant worked as a confidential informant for the FBI, and
19 told her that defendant GORDWIN would put her in contact with the FBI confidential informant
20 to help her find the fugitive.

21 18. In or about July 2005, defendant GORDWIN spoke with the FBI confidential
22 informant, who was then in Las Vegas working with a Las Vegas FBI Special Agent, and stated
23 that he needed the FBI confidential informant's help in locating the fugitive. The FBI
24 confidential informant responded that he could travel to Phoenix in August, but defendant
25 GORDWIN stated that he needed the FBI confidential informant's services before then.
26 Defendant GORDWIN stated that he had agreed to help S.S. locate the fugitive in order to help
27 S.S.'s son receive a more favorable plea deal. Defendant GORDWIN gave the FBI confidential
28 informant S.S.'s telephone number, and instructed the FBI confidential informant to call S.S.

1 about helping to find the fugitive.

2 19. On or about July 18, 2005, using both his FBI office telephone and his FBI-issued
3 cell phone, defendant GORDWIN placed telephone calls to and received telephone calls from the
4 FBI confidential informant, to set up and discuss a meeting that night with S.S.

5 20. On or about July 18, 2005, using both his FBI office telephone and his FBI-issued
6 cell phone, defendant GORDWIN placed telephone calls to and received telephone calls from
7 S.S., to set up and discuss a meeting that night with the FBI confidential informant.

8 21. On or about July 18, 2005, acting at defendant GORDWIN's direction, the FBI
9 confidential informant traveled to the Phoenix area to meet S.S. and defendant GORDWIN.

10 22. On or about late July 18, 2005, or early July 19, 2005, defendant GORDWIN
11 introduced the FBI confidential informant to S.S. in-person at a bar in the Phoenix area. During
12 the meeting, S.S. stated that she wanted the FBI confidential informant to help her locate the
13 fugitive, and thereby help her son, D.C., secure a favorable plea agreement.

14 23. On or about late July 18, 2005, or early July 19, 2005, defendant GORDWIN
15 rented, in his own name, a room at a Motel 6 located in Mesa, Arizona, so that he and S.S. could
16 engage in the improper intimate relationship after meeting the FBI confidential informant.

17 24. On or about July 19, 2005, defendant GORDWIN and the confidential informant
18 met, discussed the meeting with S.S., and discussed setting up another meeting with S.S.
19 regarding the FBI confidential informant's help in locating the fugitive.

20 25. On or about August 2, 2005, defendant GORDWIN called S.S. and informed S.S.
21 that the fugitive had just been arrested.

22 26. On or about August 3, 2005, defendant GORDWIN called Maricopa County
23 Prosecutor #1, stated that the fugitive had been arrested, and discussed the status of D.C.'s plea
24 deal. Defendant GORDWIN failed to disclose material information to Maricopa County
25 Prosecutor #1, including the improper intimate relationship and that it was affecting, and had
26 previously affected, his actions in the Radio Shack Robbery Investigation.

27 27. On or about August 3, 2005, defendant GORDWIN called S.S., and informed her of
28 his conversation with Maricopa County Prosecutor #1.

1 28. On or about August 3, 2005, defendant GORDWIN called an FBI Special Agent in
2 Las Vegas, Nevada, who was working with the FBI confidential informant, and stated that
3 defendant GORDWIN wanted the FBI confidential informant to relocate from Las Vegas,
4 Nevada, to Phoenix, Arizona. Defendant GORDWIN did not disclose material information to
5 the Las Vegas FBI Special Agent, including the improper intimate relationship and that
6 defendant GORDWIN had disclosed to S.S. the FBI confidential informant's identity.

7 29. On or about August 27, 2005, defendant GORDWIN discussed with S.S. the
8 possibility that B.M. might reveal the improper intimate relationship if B.M. became upset about
9 not receiving a favorable plea deal, and that such a revelation would start problems for defendant
10 GORDWIN because investigators into the improper intimate relationship could review phone
11 records and interview people about their relationship.

12 30. On or about August 30, 2005, defendant GORDWIN visited B.M. in prison.
13 Defendant GORDWIN stated that he would try to secure for B.M. a favorable plea deal.
14 Defendant GORDWIN falsely stated to B.M. that defendant GORDWIN and S.S. had not
15 engaged in the improper intimate relationship, and alleged to B.M. that S.S. was having an affair
16 with someone named "Dwight," in an attempt to convince B.M. that the improper intimate
17 relationship had not occurred and prevent B.M. from disclosing the improper intimate
18 relationship.

19 31. On or about September 1, 2005, defendant GORDWIN called Maricopa County
20 Prosecutor #1, and stated that B.M. wanted a favorable plea deal. Maricopa County Prosecutor
21 #1 refused to offer B.M. a favorable plea deal. During the conversation, defendant GORDWIN
22 stated that B.M. had alleged that defendant GORDWIN was having an affair with S.S., and then
23 stated something to the effect of "can you believe that" or "can you believe the lengths [B.M.]
24 would go to muddy the case against him." Defendant GORDWIN gave the impression that the
25 allegation upset him and that the allegation was false. Defendant GORDWIN failed to disclose
26 material information to Maricopa County Prosecutor #1, including the improper intimate
27 relationship and that it was affecting, and had previously affected, his actions in the Radio Shack
28 Robbery Investigation.

1 32. On or about September 1, 2005, defendant GORDWIN called S.S., and informed
2 her of his conversation with Maricopa County Prosecutor #1.

3 33. On or about September 6, 2005, defendant GORDWIN called Maricopa County
4 Prosecutor #2 and stated that B.M. wanted a favorable plea deal. Defendant GORDWIN failed to
5 disclose material information to Maricopa County Prosecutor #2, including the improper intimate
6 relationship and that it was affecting, and had previously affected, his actions in the Radio Shack
7 Robbery Investigation.

8 34. On or about September 6, 2005, defendant GORDWIN called Maricopa County
9 Prosecutor #1 and again stated that B.M. wanted a favorable plea deal. Defendant GORDWIN
10 again failed to disclose material information to Maricopa County Prosecutor #1, including the
11 improper intimate relationship and that it was affecting, and had previously affected, his actions
12 in the Radio Shack Robbery Investigation.

13 35. On or about September 6, 2005, defendant GORDWIN called S.S., and informed
14 her of his conversations with Maricopa County Prosecutor #1 and Maricopa County Prosecutor
15 #2. Defendant GORDWIN discussed with S.S. that B.M. was threatening to reveal the improper
16 intimate relationship if B.M. did not receive a favorable plea deal.

17 36. On or about September 8, 2005, defendant GORDWIN placed another call to
18 Maricopa County Prosecutor #1 and once again informed him that B.M. wanted a favorable plea
19 deal. Maricopa County Prosecutor #1 again refused to offer B.M. a favorable plea deal. In that
20 conversation, defendant GORDWIN again stated that B.M. had alleged that defendant
21 GORDWIN was having an affair with S.S., and then stated something to the effect of "can you
22 believe that" or "can you believe the lengths [B.M.] would go to muddy the case against him."
23 Defendant GORDWIN again gave the impression that the allegation upset him and that the
24 allegation was false. Defendant GORDWIN again failed to disclose material information to
25 Maricopa County Prosecutor #1, including the improper intimate relationship and that it was
26 affecting, and had previously affected, his actions in the Radio Shack Robbery Investigation.

27 37. On or about September 8, 2005, defendant GORDWIN called S.S., and informed
28 her of his conversation with Maricopa County Prosecutor #1.

1 38. During the improper intimate relationship, defendant GORDWIN stated to S.S. on
2 several occasions something to the effect of "I can make people disappear."

3 39. In or about 2005, defendant GORDWIN stated to S.S. something to the effect of "I
4 can make [B.M.] disappear in five minutes."

5 40. On or about September 12, 2005, defendant prepared a case-review report for his
6 work on the Radio Shack Robbery Investigation in preparation for his 90-day case-review
7 meeting with his FBI Supervisor. On that case-review report, defendant GORDWIN wrote that
8 the fugitive was "arrested after a witness provided information" about the fugitive's whereabouts.
9 Defendant GORDWIN failed to disclose material information in that case-review report,
10 including:

- 11 a. the improper intimate relationship;
- 12 b. that the improper intimate relationship was affecting, and had previously
13 affected, his actions in the Radio Shack Robbery Investigation; and
- 14 c. that the improper intimate relationship had affected his actions in the Lonely
15 Heights Investigation.

16 41. On or about September 12, 2005, defendant GORDWIN met with his FBI
17 Supervisor for defendant GORDWIN's 90-day case-review meeting to discuss defendant's
18 ongoing cases. Defendant GORDWIN failed to disclose material information to his FBI
19 Supervisor, including:

- 20 a. the improper intimate relationship;
- 21 b. that the improper intimate relationship was affecting, and had previously
22 affected, his actions in the Radio Shack Robbery Investigation; and
- 23 c. that the improper intimate relationship had affected his actions in the Lonely
24 Heights Investigation.

25 42. On or about September 25, 2005, defendant GORDWIN told S.S. that they needed
26 to limit their telephone contacts because he was worried about the improper intimate relationship
27 being exposed.

28 43. On or about October 5, 2005, defendant GORDWIN asked Maricopa County

Prosecutor #2 to give B.M. a favorable plea deal. Maricopa County Prosecutor #2 refused to offer B.M. a favorable plea deal. Defendant GORDWIN stated to Maricopa County Prosecutor #2 that B.M. had alleged that defendant GORDWIN had engaged in an improper intimate relationship with S.S., but denied that the relationship had occurred. Defendant GORDWIN failed to disclose material information to Maricopa County Prosecutor #2, including the improper intimate relationship and that it was affecting, and had previously affected, his actions in the Radio Shack Robbery Investigation.

44. On or about October 7, 2005, defendant GORDWIN authored a six-page Electronic Communication ("EC"), which was uploaded into an FBI database, regarding his role in the investigation of the Radio Shack Robbery. In that EC, regarding B.M.'s attempts to cooperate with law enforcement, defendant GORDWIN stated that B.M. had not offered any cooperation warranting a lenient sentence, and stated that B.M. had "little [information] to offer to investigators" and that meeting with B.M. was "a dead end." Defendant GORDWIN failed to disclose material information in that EC, including:

- a. the improper intimate relationship;
- b. that the improper intimate relationship was affecting, and had previously affected, his actions in the Radio Shack Robbery Investigation; and
- c. that the improper intimate relationship had affected his actions in the Lonely Heights Investigation.

45. On or about October 18, 2005, after defendant GORDWIN realized that he could not secure a favorable plea deal for B.M., and that B.M. would reveal the improper intimate relationship, defendant GORDWIN made a partial admission about the improper intimate relationship to defendant GORDWIN's FBI Supervisor. In that partial admission, defendant GORDWIN minimized both the duration and frequency of the improper intimate relationship.

46. On or about October 18, 2005, defendant GORDWIN's FBI Supervisor ordered defendant GORDWIN to cease all contact with S.S.

47. Beginning on or about October 19, 2005, and continuing until on or about October 30, 2005, after making a partial admission about the improper intimate relationship to his FBI

1 supervisor, defendant GORDWIN disobeyed his FBI Supervisor's order to cease all contact with
2 S.S. by using the FBI confidential informant as an intermediary to communicate with S.S.

3 48. In or about November 2005, after making a partial admission about the improper
4 intimate relationship to his FBI supervisor, defendant GORDWIN told the FBI confidential
5 informant that if the FBI confidential informant was asked about the Motel 6 room that defendant
6 GORDWIN rented on or about July 18, 2005, in defendant GORDWIN's own name, that the FBI
7 confidential informant should state that defendant GORDWIN rented the room for the FBI
8 confidential informant. Defendant GORDWIN then drove the FBI confidential informant to that
9 Motel 6, so that the FBI confidential informant could properly identify the specific Motel 6 if
10 questioned.

11 49. In or about November 2005, after making a partial admission about the improper
12 intimate relationship to his FBI supervisor, defendant GORDWIN and the FBI confidential
13 informant discussed how the FBI confidential informant would respond if asked by federal
14 investigators about certain aspects of the improper intimate relationship. The FBI confidential
15 informant refused to make false statements to federal investigators for defendant GORDWIN, but
16 agreed that he would refuse to speak with federal investigators about defendant GORDWIN.

17 50. In or about December 2005, after making a partial admission about the improper
18 intimate relationship to his FBI supervisor, defendant GORDWIN disobeyed his FBI
19 Supervisor's order to cease all contact with S.S. and met with S.S. at her place of business. In
20 that meeting, defendant GORDWIN asked S.S. to make false statements to investigators about
21 specific aspects of the improper intimate relationship (including defendant GORDWIN's misuse
22 of his FBI vehicle to facilitate the improper intimate relationship, and defendant GORDWIN's
23 disclosure to S.S. of the FBI confidential informant's identity), asked her to make false
24 statements in court, stated that he could defeat a lie detector test if he had to take one, and stated
25 that if she refused to make false statements it would be his word against her word, and he would
26 be more credible because he was an FBI Special Agent.

27 51. In or about late 2005 or early 2006, after making a partial admission about the
28 improper intimate relationship to his FBI supervisor, defendant GORDWIN stated to the FBI

1 confidential informant something to the effect of "if I could kill [S.S.] and get away with it, I
2 would do it."

3 52. In or about January 2006, after making a partial admission about the improper
4 intimate relationship to his FBI supervisor, defendant GORDWIN contacted the SPD Detective,
5 admitted he had engaged in the improper intimate relationship, but falsely stated that he had not
6 used his FBI vehicle to facilitate the improper intimate relationship. When defendant
7 GORDWIN contacted the SPD Detective, defendant GORDWIN knew that the SPD Detective
8 was a potential witness in the investigation into defendant GORDWIN.

9 53. On or about January 18, 2006, after making a partial admission about the improper
10 intimate relationship to his FBI supervisor, and after being informed that the DOJ-OIG would be
11 taking over the investigation into defendant GORDWIN from the FBI, defendant GORDWIN
12 contacted Maricopa County Prosecutor #2, acknowledged that he had not been truthful with
13 Maricopa County Prosecutor #2 about the improper intimate relationship, and asked that
14 Maricopa County Prosecutor #2 not discuss the affair around the Maricopa County District
15 Attorney's Office because defendant GORDWIN's wife had previously worked there and she
16 was not yet aware of the improper intimate relationship. When defendant GORDWIN contacted
17 Maricopa County Prosecutor #2, defendant GORDWIN knew that Maricopa County Prosecutor
18 #2 was a potential witness in the investigation into defendant GORDWIN.

19 54. On or about January 23, 2006, after making a partial admission about the improper
20 intimate relationship to his FBI supervisor, and after being informed that the DOJ-OIG would be
21 taking over the investigation into defendant GORDWIN from the FBI, defendant GORDWIN
22 disobeyed his FBI Supervisor's order to cease all contact with S.S. and called S.S. and requested
23 to meet with her the next day, January 24, 2006, at the Chandler Fashion Center.

24 55. On or about January 24, 2006, after making a partial admission about the improper
25 intimate relationship to his FBI supervisor, and after being informed that the DOJ-OIG would be
26 taking over the investigation into defendant GORDWIN from the FBI, defendant GORDWIN
27 placed a call to Maricopa County Prosecutor #2, even though defendant GORDWIN knew that
28 Maricopa County Prosecutor #2 was a potential witness in the investigation into defendant

1 GORDWIN.

2 56. On or about January 24, 2006, after making a partial admission about the improper
3 intimate relationship to his FBI supervisor, and after being informed that the DOJ-OIG would be
4 taking over the investigation into defendant GORDWIN from the FBI, defendant GORDWIN
5 disobeyed his FBI Supervisor's order to cease all contact with S.S. and met S.S. at the Chandler
6 Fashion Center. During the meeting, defendant GORDWIN made several statements to S.S.,
7 including:

- 8 a. that he had seen DOJ-OIG Special Agents inside the FBI's Phoenix Office that
9 day;
- 10 b. asking S.S. to contact the FBI Special Agents who had previously interviewed
11 her and recant the statements she had made to them;
- 12 c. asking S.S. to provide false statements to the DOJ-OIG Special Agents when
13 they interviewed her; and
- 14 d. threatening to kill himself if S.S. did not recant her statements to the FBI
15 Special Agents and provide false statements to the DOJ-OIG Special Agents,
16 stating something to the effect of he would "blow his head off."

17 57. On or about February 7, 2006, after making a partial admission about the improper
18 intimate relationship to his FBI supervisor, and after being informed that the DOJ-OIG would be
19 taking over the investigation into defendant GORDWIN from the FBI, and after being warned by
20 his FBI Supervisor and the Phoenix ASAC not to interfere with the DOJ-OIG's investigation,
21 defendant GORDWIN drafted an EC, which was uploaded into an FBI database. In that EC,
22 defendant GORDWIN falsely stated that the FBI confidential informant's identity "was not
23 disclosed outside of the Department of Justice." When defendant GORDWIN made this false
24 statement he was well aware that he had disclosed to S.S. the FBI confidential informant's
25 identity and that the DOJ-OIG was investigating the improper intimate relationship.

26 C. USE OF THE WIRES

27 On or about the dates set forth below, within the District of Arizona and elsewhere,
28 defendant GORDWIN, for the purpose of executing the above-described scheme to defraud and

1 deprive, transmitted, willfully caused the transmission, and aided and abetted the transmission of,
2 the following items by means of wire and radio communication in interstate and foreign
3 commerce:

4	<u>COUNT</u>	<u>DATE</u>	<u>ITEM WIRED</u>
5	ONE	July 14, 2005	Telephone call from defendant GORDWIN in
6			Phoenix, Arizona to the FBI confidential informant
7			in Las Vegas, Nevada regarding the FBI
			confidential informant helping S.S. to find the
			fugitive
8	TWO	July 15, 2005	Telephone call from the FBI confidential informant
9			in Las Vegas, Nevada to defendant GORDWIN in
			Phoenix, Arizona regarding the FBI confidential
			informant helping S.S. to find the fugitive
10	THREE	July 18, 2005	Telephone call from defendant GORDWIN in
11			Phoenix, Arizona to the FBI confidential informant
12			in Las Vegas, Nevada regarding the confidential
			informant helping S.S. to find the fugitive
13	FOUR	August 3, 2005	Telephone call from defendant GORDWIN in
14			Phoenix, Arizona to an FBI Special Agent in Las
			Vegas, Nevada regarding the confidential informant
15	FIVE	October 7, 2005	Transmission from Phoenix, Arizona to
16			Washington, D.C. of an EC relating to the Radio
			Shack Robbery Investigation and B.M.
17	SIX	February 7, 2006	Transmission from Phoenix, Arizona to
18			Washington, D.C. of an EC regarding the FBI
			confidential informant

COUNTS SEVEN THROUGH TEN

[18 U.S.C. § 1001]

On or about the dates set forth below, in Maricopa County, within the District of Arizona, in a matter within the jurisdiction of the executive branch of the United States, specifically the jurisdiction of the Federal Bureau of Investigation ("FBI"), defendant JOE L. GORDWIN ("GORDWIN") knowingly and willfully falsified, concealed, and covered up by trick, scheme and device material facts, including the improper intimate relationship; that the improper intimate relationship was affecting, and had previously affected, his actions in the Radio Shack Robbery Investigation; and that the improper intimate relationship had affected his actions in the Lonely Heights Investigation. Defendant GORDWIN failed to disclose these material facts in the following communications:

<u>COUNT</u>	<u>DATE</u>	<u>COMMUNICATION</u>
SEVEN	March 12, 2005	Defendant GORDWIN's 90-day case-review meeting with his FBI Supervisor, in which they discussed defendant GORDWIN's actions in connection with the Radio Shack Robbery Investigation.
EIGHT	June 13, 2005	Defendant GORDWIN's 90-day case-review meeting with his FBI Supervisor, in which they discussed defendant GORDWIN's actions in connection with the Radio Shack Robbery Investigation.
NINE	September 12, 2005	Defendant GORDWIN's 90-day case-review meeting with his FBI Supervisor, in which they discussed defendant GORDWIN's actions in connection with the Radio Shack Robbery Investigation.
TEN	October 7, 2005	Defendant GORDWIN's Electronic Communication regarding defendant GORDWIN's actions in connection with the Radio Shack Robbery Investigation.

COUNTS ELEVEN THROUGH FOURTEEN

[18 U.S.C. § 1512(b)(3)]

On or about the dates set forth below, in Maricopa County, within the District of Arizona, defendant JOE L. GORDWIN ("GORDWIN") knowingly engaged in misleading conduct toward another person with intent to hinder, delay, and prevent the communication to a law enforcement officer of information relating to the commission and possible commission of a Federal offense.

COUNT MISLEADING CONDUCT

ELEVEN On or about September 1, 2005, defendant GORDWIN stated to Maricopa County Prosecutor #1 that B.M. had alleged that defendant GORDWIN was having an affair with S.S., and then stated something to the effect of "can you believe that" or "can you believe the lengths [B.M.] would go to muddy the case against him." Defendant GORDWIN gave the impression that the allegation upset him and that the allegation was false, when in truth and in fact, as defendant GORDWIN then well knew, he had engaged in the improper intimate relationship.

TWELVE On or about September 8, 2005, defendant GORDWIN stated to Maricopa County Prosecutor #1 that B.M. had alleged that defendant GORDWIN was having an affair with S.S., and then stated something to the effect of "can you believe that" or "can you believe the lengths [B.M.] would go to muddy the case against him." Defendant GORDWIN gave the impression that the allegation upset him and that the allegation was false, when in truth and in fact, as defendant GORDWIN then well knew, he had engaged in the improper intimate relationship.

THIRTEEN On or about October 5, 2005, defendant GORDWIN stated to Maricopa County Prosecutor #2 that B.M. had alleged that defendant GORDWIN was having an affair with S.S., and then falsely stated that the affair had never occurred, when in truth and in fact, as defendant GORDWIN then well knew, he had engaged in the improper intimate relationship.

FOURTEEN In or about January 2006, defendant GORDWIN falsely stated to the SPD Detective that defendant GORDWIN had not used his FBI vehicle to facilitate the improper intimate relationship, when in truth and in fact, as defendant GORDWIN then well knew, he had used his FBI vehicle to facilitate the improper intimate relationship.

COUNTS FIFTEEN THROUGH SEVENTEEN

[18 U.S.C. § 1512(b)(3)]

On or about the dates set forth below, in Maricopa County, within the District of Arizona, and elsewhere, defendant JOE L. GORDWIN ("GORDWIN") knowingly used intimidation, threatened, and corruptly persuaded another person, and attempted to do so, with intent to hinder, delay, and prevent the communication to a law enforcement officer of information relating to the commission and possible commission of a Federal offense.

COUNT USE OF INTIMIDATION, THREAT, CORRUPT PERSUASION AND ATTEMPT TO DO SO

FIFTEEN In or about November 2005, defendant GORDWIN told the FBI confidential informant that if the FBI confidential informant were asked about the Motel 6 room that defendant GORDWIN rented on or about July 18, 2005, in defendant GORDWIN's own name, that the FBI confidential informant should falsely state that defendant GORDWIN rented the room for the FBI confidential informant. Defendant GORDWIN then drove the FBI confidential informant to that Motel 6, so that the FBI confidential informant could properly identify the specific Motel 6 if questioned.

SIXTEEN In or about December 2005, after defendant GORDWIN's FBI Supervisor ordered him to cease all contact with S.S., defendant GORDWIN met with S.S. at her place of business. In that meeting, defendant GORDWIN asked S.S. to make false statements to investigators about specific aspects of their affair, asked her to make false statements in court, stated that he could defeat a lie detector test if he had to take one, and stated that if she refused to make false statements it would be his word against her word, and he would be more credible because he was an FBI Special Agent.

SEVENTEEN On or about January 24, 2006, after defendant GORDWIN's FBI Supervisor ordered him to cease all contact with S.S., defendant GORDWIN met with S.S. at the Chandler Fashion Center. Defendant GORDWIN asked S.S. to contact the FBI Special Agents who had previously interviewed her, and recant the statements she had made to them, asked S.S. to provide false statements to the DOJ-OIG Special Agents when they interviewed her, and threatened to kill himself if S.S. did not recant her statements to the FBI Special Agents and provide false statements to the DOJ-OIG Special Agents, stating something to the effect of he would "blow his head off."

COUNT EIGHTEEN

[18 U.S.C. § 1001]

On or about February 7, 2006, in Maricopa County, within the District of Arizona, in a matter within the jurisdiction of the executive branch of the United States, specifically the jurisdiction of the Federal Bureau of Investigation ("FBI"), defendant JOE L. GORDWIN ("GORDWIN") knowingly and willfully made a materially false, fictitious and fraudulent statement and representation, in that defendant GORDWIN authored a two-page Electronic Communication ("EC"), which was uploaded into an FBI database, regarding the FBI confidential informant in which defendant GORDWIN falsely stated that the FBI confidential informant's identity "was not disclosed outside of the Department of Justice."

When defendant GORDWIN made this false statement he was well aware that he had disclosed to S.S. the FBI confidential informant's identity and that the DOJ-OIG was investigating the improper intimate relationship.

A TRUE BILL

_____/S/_____
Foreperson

THOMAS P. O'BRIEN
United States Attorney

_____/S/_____
Foreperson

CHRISTINE C. EWELL
Assistant United States Attorney
Chief, Criminal Division

JOSEPH O. JOHNS
Assistant United States Attorney

LAWRENCE S. MIDDLETON
Special Counsel to the United States Attorney

BAYRON T. GILCHRIST
Assistant United States Attorney
Special Attorney to the United States Attorney General for the District of Arizona