

SEARCH WARRANT

FILED
HALL CO. GA.

IN THE MAGISTRATE COURT OF HALL COUNTY
STATE OF GEORGIA

2008 OCT 29 AM 11:36
MAGISTRATE COURT

Docket No. SL-SW 2008

TO: ALL PEACE OFFICERS OF THE STATE OF GEORGIA

Affidavit having been made before me by Scott Lilly, a peace officer charged with the duty of enforcing the Criminal Laws, which he has reason to believe that in Hall County, Georgia located at 1301 Aviation Blvd. Gainesville, Georgia. Beginning at the intersection of Industrial Blvd. and Aviation Blvd, Both marked county roads. Travel south on Aviation Blvd to the first commercial business on the right hand side of the roadway, which is the business of North Georgia Equipment Sales, LLC and is clearly marked as same. The said premises to be searched being a commercial office building. The premises to be searched is located in Hall County Georgia.

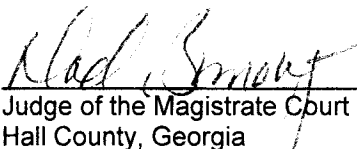
THERE IS NOW BEING CONCEALED CERTAIN PROPERTY, NAMELY: Papers and or writings relating to the purchase or sale of Heavy Equipment, Financial Records such as account statements, General Ledgers, receipts of monies taken in and or paid out, Spreadsheets, computers and computer equipment to include, but not limited to central processing units; internal and peripheral storage devices such as fixed disks, external hard disks, floppy disks and diskettes, tape drives and tapes, optical storage devices or other memory storage devices; together with system documentation, operating logs and documentation; and software and instruction manuals.

WHICH ARE: Evidence of the crime of Theft/Conversion and Theft/Deception.

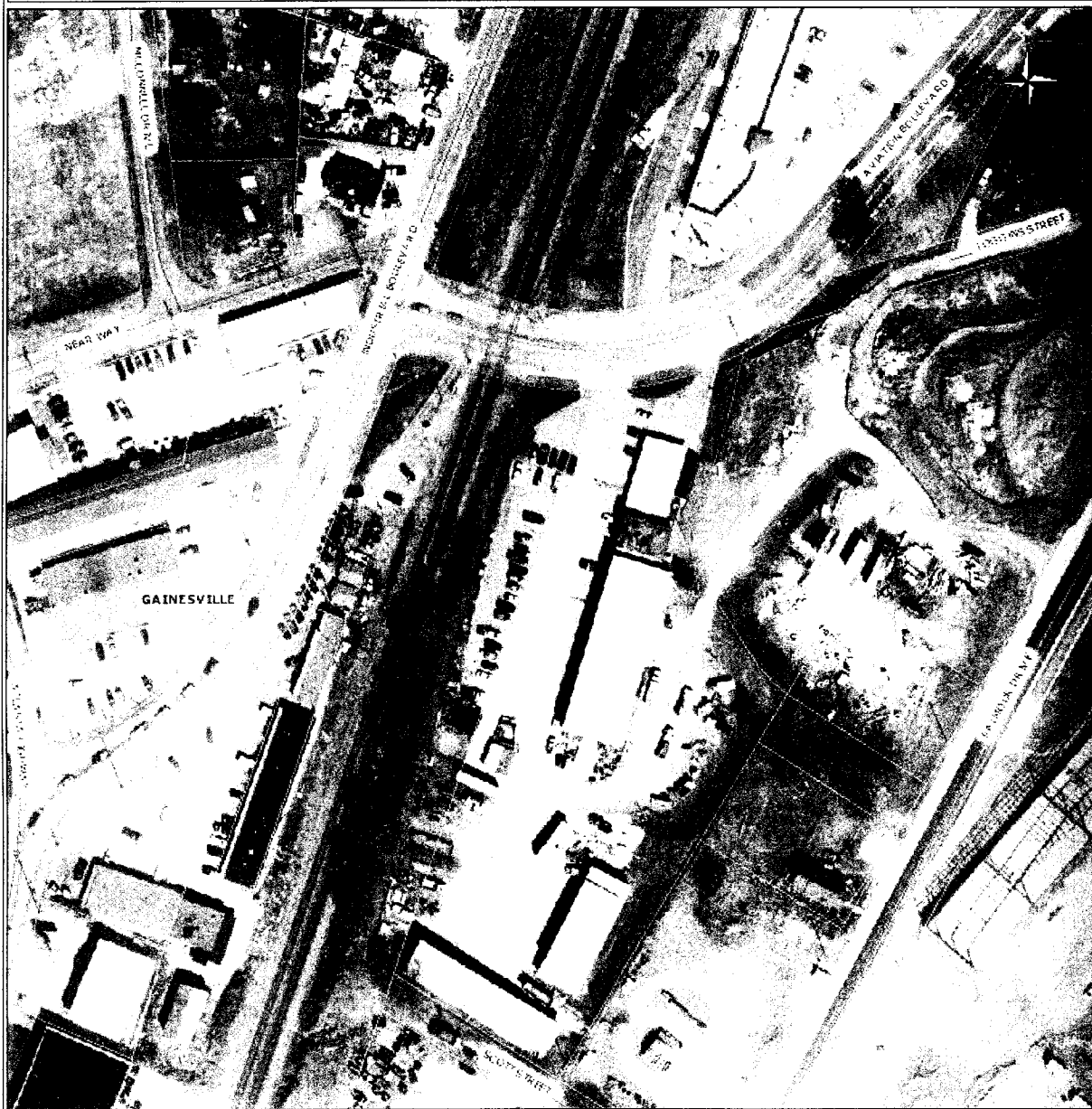
Based upon affidavit given under oath or affirmation and all other evidence given to me under oath or affirmation, I am satisfied that there is probable cause to believe that a crime is being committed or has been committed and that the property described above is presently located on the premises, or property described above.

You are hereby commanded to enter, search and seize within ten (10) days of this date, the person, premises, or property described above. A copy of this Warrant is to be left with the vehicle, or if no person is available, on the vehicle being searched, and a written return, including an inventory of any things, seized, shall be made before me or a Court of competent jurisdiction without unnecessary delay after the execution of this Search Warrant.

SO ORDERED this 15th day of October, 2008, at 1:05 A M.



Judge of the Magistrate Court
Hall County, Georgia



Map printed on: Wed Oct 15 00:43:13 2008

0 67.2ft

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Contact:

Name: Hall County GIS Dept
Phone: 770-531-6809
Email: gis@hallcounty.org

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MAGISTRATE COURT

NO-KNOCK PROVISION (Not Valid Unless Signed)

by: PT

IT APPEARING from the aforementioned Affidavit that there are reasonable grounds to believe that the giving of verbal notice would greatly increase the officer's peril and (or) lead to the immediate destruction of the instruments, articles or things ordered to be seized.

IT IS, THEREFORE, ORDERED that entry be made without knocking and the giving of verbal notice of the officer's authority and purpose.

SO ORDERED this _____ day of _____, 20__ at _____.M.

Judge of the Magistrate Court
Hall County, Georgia

RETURN OF SERVICE

- This Search Warrant was not executed and is returned to the judicial officer who issued it.
- I executed this Search Warrant on the 15 day of October 2008 at 01:30 .M. and searched the person, premises or property described in the warrant.

A copy of this warrant:

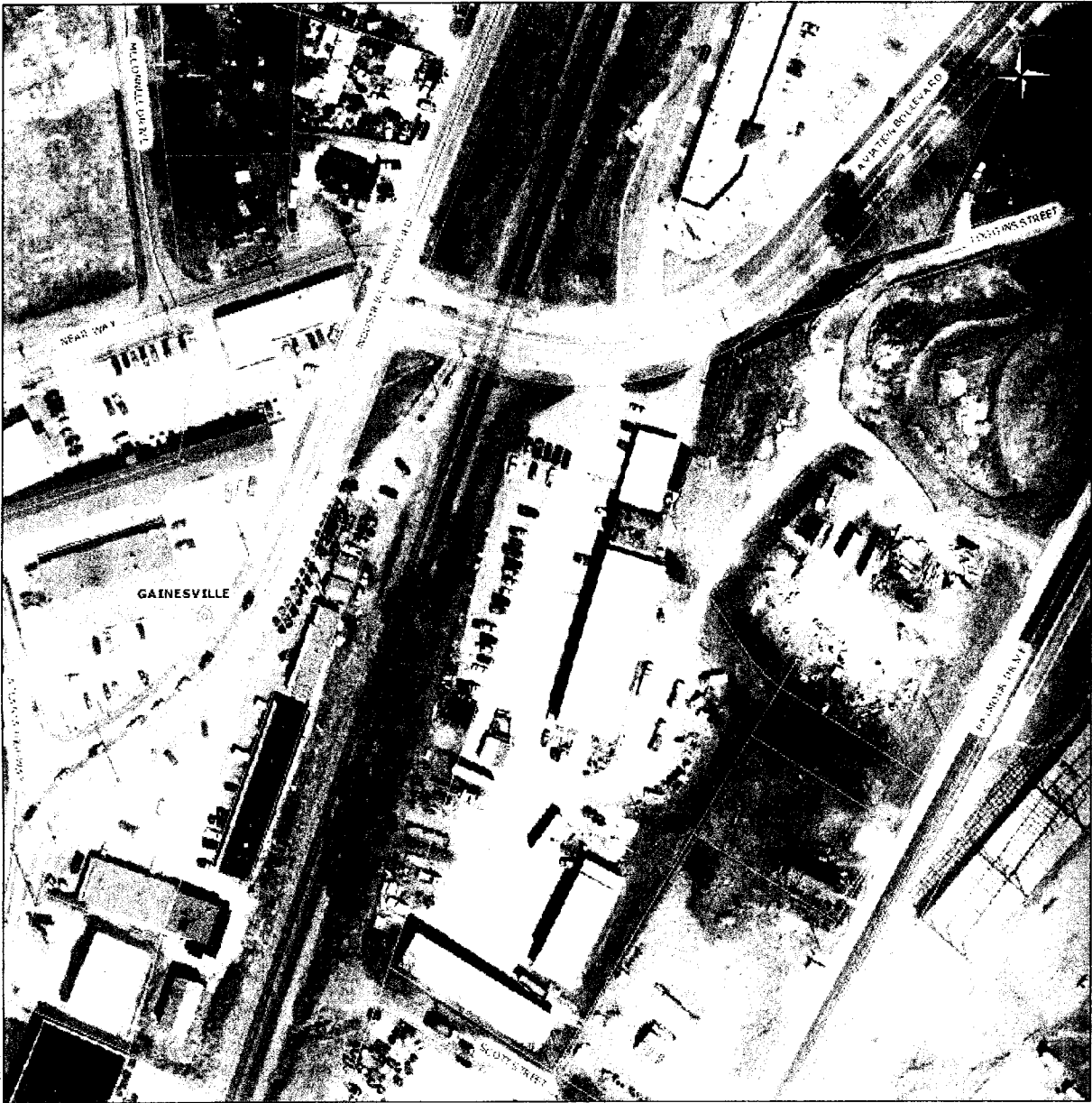
- Was left with _____
- Was left in the following conspicuous place: on Desk in Main
office because no
one was available to be given the warrant.

Attached hereto is an inventory consisting of 1 pages, of the instruments, articles or things which were seized pursuant to this Search Warrant. This inventory was made in the presence of Sgt. Watterson and I swear (affirm) that this inventory is a true and detailed account of all instrument, articles or things seized pursuant to this Search Warrant.

Scott Kelly / ENV
Affiant

Sworn and subscribed to before
me this 29 day of

October 2008
Ray W. Cooper
Title Judge
Magistrate Court
Hall County, Georgia



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0 67.2ft

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Comments:

Contact:

Name: Hall County GIS Dept
Phone: 770-531-6809
Email: gis@hallcounty.org

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Affiant spoke with Michael Smith who purchased a 1999 Caterpillar 953C for the sum of \$57,000 on August 11, 2008. This same piece of Heavy Equipment was signed over to Mike Weaver on October 11, 2008 by Mr. Spell stating that the piece of Heavy Equipment was free and clear of all encumbrances and had a clear Title.

Affiant also spoke with Matt Handte who stated that he too invested money with Mr. Spell and that during September he provided Mr. Spell with almost \$300,000 to purchase Heavy Equipment. Mr. Handte provided copies of e-mails from both Mr. Spell and Betty Sullivan (Book Keeper for Mr. Spell) during the months of September and October of 2008. These e-mails consisted of photos of Heavy Equipment to be purchased by Mr. Spell, conversations on wire transfers for the sale of said equipment. An e-mail to Mr. Handte from Betty Sullivan mentions scanning information into her computer as well as adjusting spreadsheets on her computer. Mr. Handte stated that he was provided pictures and PIN numbers for 2 2005 D8T Caterpillar's which were supposed to have been purchased by Mr. Spell. Mr. Handte stated that after he grew suspicious of Mr. Spell not returning phone calls or e-mails, or continuously stalling, Mr. Handte went online at heavyequipment.com and ran the PIN numbers of the 2 pieces of Heavy Equipment. Mr. Handte stated that he found these two pieces of Equipment were for sale in Grand Prairie Texas and had not been purchased by Mr. Spell as Mr. Handte had been previously advised.

Mr. Handte provided printed out copies of e-mail correspondences between himself and Mr. Spell about the numbers being incorrect. Mr. Spell responded giving the numbers of two more pieces of the same Heavy Equipment which Mr. Handte was advised was at Kelly Tractor in West Palm Beach Florida. Mr. Handte stated that he contacted Kelly Tractor and was advised by an employee that no wire transfer or purchase order had been enacted by Mr. Spell. Mr. Handte provided Affiant with copies of e-mail's between himself, Mr. Spell and Betty Sullivan during the month of September and October where Mr. Handte continuously made an effort to receive payment from Mr. Spell and did not receive e-mails from Mr. Spell, but received e-mails from Betty Sullivan instead. Affiant was advised by Mr. Aman that Betty Sullivan recently quit and was no longer employed at the business, however her computer remains at the business.

Affiant was also advised by Mr. Handte that he had a Bill of Sale on a 2006 Terex PIN number TXC340-LC-2 which was purchased by him from Mr. Spell on August 16, 2008 who signed over this same piece of Heavy Equipment to Mike Weaver stating it was free and clear of any encumbrances and had a clear Title on October 11, 2008 to settle a debt owed to Mr. Weaver by Mr. Spell.

Based on the above stated facts, your Affiant believes there is now being concealed evidence of the crimes detailed in this affidavit. Affiant makes this affidavit so that a search warrant may be issued for the aforesaid property.

Sworn and subscribed to before
me this 15 day of
October, 2008
at 1:05 o'clock P m.

John Spell 4557/ENR
Affiant (Name and Title)

W. B. [Signature]
Judge of the Magistrate Court
Hall County, Georgia

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DA

Hall County Sheriff's Office

Property and Evidence Form

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Case Number 08-109122	Deputy/Investigator Lilly	Evidence Series 2008 OCT 29 AM 11:36
Incident Type/Charges Theft by deception (F)		Lead Investigator MAGISTRATE COURT
Victim(s)	Arrestee(s) <input type="checkbox"/> Suspect(s) <input type="checkbox"/>	by: [Signature]
Owner (Name and Phone Number)	Owner's Physical Address 1301 AVIATION Blvd Gainesville GA 30501	

*** All U.S. currency, drugs, and firearms must be submitted on separate Property and Evidence Forms ***

Item #	Quantity	Description of Item (make, model, color, serial number, size, etc.)	Location of Item at Time of Collection
1	1	Dell tower Ser# BM3C491 + Keyboard/mouse	Middle office
2	1	Dell Monitor Ser# CN-CWTF814-72872-533	" "
3	1	HP Photosmart C4880 Ser# MY776DS 13D	" "
4	1	Dell tower Ser# GY3B1C1 + Keyboard/mouse	End office
5	1	Dell Monitor Ser# CN-0C3319-728272-053L	
6	1	Dell Dimension Ser# 4RQ4N61 Keyboard/mouse	Spells office
7	1	Acer Monitor Ser# ET2216B ODO	" "
8	1	box various paperwork loan, tax info, ledgers and checks Equipment list	End office
9	1	box various paperwork Bills of Sales, equipment transactions	Spells office

Attention property owners and/or claimants: You must notify the HCSO Property and Evidence Unit in writing within 90 days of the closure of this case of your intent to claim your property. After 90 days the property in this case will be disposed of.

Chain of Custody

Item #	Date / Time	Relinquished By	Received By	Purpose for Change of Custody
1-7	10/16/08 8:16:09	[Signature]	After Hours Locker 3359	evidence
1-7	10/27/08	[Signature]	X Robert Balsam	1/206 608

Evidence/Property Status: (Must be completed by Seizing Officer)

- Evidence (Retain until case closed) Found Property (Retain for 90 days and dispose of)
 Safe Keeping (Contact seizing officer prior to release) Contraband (Destroy ASAP)

Special Instructions: Bio-Hazard Refrigerate Possible unsafe firearm Can Be Destroyed

Final Disposition of Item(s):

Date:

White - Original Copy

Green - Records Copy

Pink - Officer Copy

Gold - Misc. Copy

[Signature]
10/29/08