

FILED IN CHAMBERS U.S.D.C ATLANTA Date: <u>Jun 09 2020</u>
JAMES N. HATTEN, Clerk By: <u>s/James Jarvis</u> Deputy Clerk

United States District Court
NORTHERN DISTRICT OF GEORGIA

UNITED STATES OF AMERICA

v.

STEPHEN MATTHEW SHUMAKER a/k/a MATT SHUMAKER

CRIMINAL COMPLAINT

Case Number: 1:20-MJ-457

UNDER SEAL

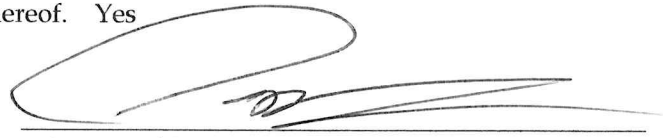
I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about April 27, 2020 in Coweta County, in the Northern District of Georgia, defendant(s) did, (1) fraudulently and knowingly engage in a scheme to defraud using false pretenses, representations and promises and the use of the mails; and (2) did knowingly distribute and sell a pesticidal device that is misbranded contrary to law

in violation of Title 18, United States Code, Section 1341, and Title 7, United States Code, Section(s) 136j(a)(1)(F) and 136l(b)(1)(B).

I further state that I am a Postal Inspector and that this complaint is based on the following facts:

PLEASE SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof. Yes



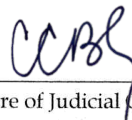
Signature of Complainant
Daryl S. Greenberg

Based upon this complaint, this Court finds that there is probable cause to believe that an offense has been committed and that the defendant has committed it. Sworn to me by telephone pursuant to Federal Rule of Criminal Procedure 4.1.

June 9, 2020
Date

at Atlanta, Georgia
City and State

CHRISTOPHER C. BLY
UNITED STATES MAGISTRATE JUDGE
Name and Title of Judicial Officer
SAUSA Valerie M. Verduce / 2020R00396


Signature of Judicial Officer

AFFIDAVIT

I, Daryl Greenberg, depose and say under penalty of perjury:

1. I make this affidavit in support of an application for a criminal complaint against Stephen Matthew SHUMAKER, a/k/a Matt SHUMAKER, charging violations of Title 18, U.S.C. § 1341 and Title 7 U.S.C. §§ 136j(a)(1)(F), and 136l(b)(1)(B). The investigation relates to a scheme to defraud consumers by SHUMAKER, and others, who falsely claim that an air purifier, a misbranded device, will protect against and kill COVID-19 (the coronavirus disease) in their homes.

2. I am a Postal Inspector with the United States Postal Inspection Service. I have been employed as a Postal Inspector since 2003, and was a police officer for seven years before that. I investigate criminal violations relating to mail fraud, in addition to other matters. I am familiar with various fraudulent schemes utilized by suspects, including those involving theft under false pretenses, and I have participated in numerous fraud investigations involving false claims of products and services offered. I have debriefed defendants, witnesses, and informants regarding numerous fraud investigations. I am also well versed in conducting investigations that use such tactics as physical surveillance, electronic surveillance, interceptions of wire and electronic communications, undercover transactions, and the execution of search warrants. From my experience, I know that fraudulent schemes typically involve the use of misleading and untrue statements to induce the sale of products and services to consumers.

3. This affidavit is based upon my personal knowledge derived from my participation in this investigation; information that I have learned from special agents and others employed by the Environmental Protection Agency (EPA), U.S. Immigration & Customs Enforcement, Homeland Security Investigations (HSI), and additional law enforcement personnel who are involved in this investigation; and information obtained from other sources, including through business records and recorded phone calls with SHUMAKER and others.

4. Unless otherwise noted, wherever in this affidavit I assert that a statement was made, the information was provided by another law enforcement officer (who may have either direct or hearsay knowledge of the statement) to whom I have spoken or whose report I have read and reviewed. Such statements are stated in substance, unless otherwise indicated. Wherever in this affidavit I state a belief, such belief is based upon my training and experience and the information obtained through this investigation.

5. The information contained in this affidavit is submitted for the purpose of demonstrating probable cause to obtain a criminal complaint against SHUMAKER for engaging in a scheme to defraud using false pretenses, representations, and promises, and the use of the mails (18 U.S.C § 1341); and for knowingly distributing and selling a device that is misbranded contrary to law (7 U.S.C. §§ 136j(a)(1)(F), and 136l(b)(1)(B)). The facts stated in this affidavit do not reflect the totality of the information known to me or other officers, and are merely the amount needed to establish probable cause. I do not rely upon facts not stated here in reaching my conclusion that a complaint should issue. Nor do I

request that this Court rely upon any facts not stated here in reviewing this affidavit in support of the application for a criminal complaint.

STATUTORY AND REGULATORY BACKGROUND

I. Mail Fraud

6. 18 U.S.C. § 1341 makes it a federal crime for a person to knowingly devise or participate in a scheme to defraud another by using false or fraudulent pretenses, representations, or promises about a material fact, with the intent to defraud, and by using the mail.

II. The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)

7. FIFRA regulates the production, sale, distribution and use of pesticides and pesticidal products in the United States. A “pesticide” is any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest. 7 U.S.C. § 136(u); 40 C.F.R. § 152.3. The term “pest” is broadly defined to include, among other things, viruses, bacteria, or other micro-organisms. 7 U.S.C. § 136(t). The term “device” means any instrument or contrivance intended to trap, destroy, repel, or mitigate any pest or other form of plant or animal life. 7 U.S.C. § 136(u).

8. FIFRA requires all pesticidal products sold or distributed to be manufactured at an EPA registered establishment. 7 U.S.C. § 136a(a); 40 C.F.R. §§ 152.500 and 167.20. Pesticidal product means a pesticide, active ingredient, or device. 40 C.F.R. § 167.3. Pesticide-producing establishments receive an establishment-registration number (designated by the phrase “EPA Est.”). 40 C.F.R. §§ 156.10(e) and 156.10(f).

9. All pesticidal products are subject to the labeling requirements of 7 U.S.C. § 136(q)(1) and 40 C.F.R. 156. The label must contain the establishment number (40 C.F.R. § 156.10(a)); directions for use (40 C.F.R. § 156.10(i); child hazard warnings (40 C.F.R. § 156.66); a first aid statement (40 C.F.R. § 156.68); precautionary statements for humans and domestic animals (40 C.F.R. § 156.70); and environmental hazard and precautionary statements (40 C.F.R. §§ 156.80 and 156.85). It is unlawful for any person to sell or distribute to any other person a device that is “misbranded.” 7 U.S.C. § 136j(a)(1)(F). A device is “misbranded” under FIFRA if, *inter alia*, the label does not bear the registration number assigned under 7 U.S.C. § 136e to each establishment in which it was produced. 7 U.S.C. § 136(q)(1)(D).

10. Under FIFRA, it is a criminal offense to knowingly violate any provision of the statute. 7 U.S.C. § 136l(b)(1)(B).

FACTS SUPPORTING PROBABLE CAUSE

11. On April 7, 2020 I opened a criminal investigation after a resident of the Northern District of Georgia reported receiving a suspicious post card in the First Class United States Mail. The postcard claimed,

CREATE CLEAN AIR FOR LESS THAN \$1/DAY!! KILL COVID-19,
CORONAVIRUS IN YOUR HOME!! CALL TODAY!! (770) 368-

6188

on one side, and

BEYOND GUARDIAN AIR Kills every known major viral and bacterial infection including Staph, E. Coli, MRSA, Strep. Avian Bird

Flu, Hepatitis, Swine Flu, and Norovirus Utilizing ActivePure Technology. ActivePure creates hydrogen peroxide. Hydrogen peroxide is a known killer of **COVID-19, CORONAVIRUS** *CREATE CLEAN AIR FOR LESS THAN \$1/DAY!!* CALL TODAY FOR MORE INFORMATION

on the other.

12. The postcard also contained a photograph of an air purifier (the DEVICE). The following is a true and correct copy of the postcard:

BEYOND GUARDIAN AIR



- ✓ Kills every known major viral and bacterial infection including Staph, E. Coli, MRSA, Strep, Avian Bird Flu, Hepatitis, Swine Flu, and Norovirus
- ✓ Utilizing ActivePure® Technology. ActivePure® creates hydrogen peroxide. Hydrogen peroxide is a known killer of **COVID-19, CORONAVIRUS**

CREATE CLEAN AIR FOR LESS THAN \$1 / DAY!!

CALL TODAY FOR MORE INFORMATION
RESTRICTIONS APPLY | SUBJECT TO APPROVAL

CREATE CLEAN AIR FOR LESS THAN \$1 / DAY!!

KILL COVID-19, CORONAVIRUS IN YOUR HOME!!

CALL TODAY!! (770) 368-6188

TRACKING NUMBER:

PLW- 0320 0188



FIRST CLASS MAIL

3/23



13. Using open source searches, I learned that the telephone number on the postcard belongs to a company in the Northern District of Georgia called Pure Life Water Corp (PLW), a corporation registered with the Georgia Secretary of State since December 8, 2016. Stephen SHUMAKER is identified as its CEO, CFO, Secretary, and Registered Agent in each of PLW's annual corporate registrations with the Secretary of State. I am unable to locate an EIN number for this company, and a search of Georgia Department of Labor returns no results for PLW or any paid employee of that company.

14. Using a US Postal Service record search of a tracking number on the postcard, I determined that the postcard was mailed by Atlanta Business Circulars (ABC) at the Marietta, GA Post Office. I also learned that the postcard was then processed through the USPS Crown Road Product and Distribution Center in Atlanta, GA. Both the Post Office and the Distribution Center are in the Northern District of Georgia. I spoke with the CEO of ABC, R.L., and he confirmed that ABC produced and mailed this postcard, and many others, under the direction of SHUMAKER and for PLW.

15. ABC also produced records to me that showed the following:
a. on March 16, 2020, at 12:42pm, R.L. received a request from C.M. stating:

My name is [C.M.], and I am the Director of Public Relations with PLW. I am helping my boss, Matt Shumaker, with finalizing the Beyond Guardian Air mailer. Here are the revisions we want below.

. . . (Please put 'Covid-19 CORONAVIRUS' in bold, all caps and red

font) please put the following 'KILL COVID-19 CORONAVIRUS IN YOUR HOME!!' (this needs to be in BIG, red font, and it needs to take up most of the [message space]. Matt couldn't stress enough that he wants that phrase to pop, be BIG, and be the main focusWe look forward to the quick turnaround;

b. On March 16, 2020 at 1:14pm, R.L. replied, "I put a big red box on the [message space] with white font. I figured that would pop more than simply red font." Pictures of the front and back of the postcard (the "proofs") were attached;

c. Twelve minutes later, on March 16, 2020 at 1:26 pm, C.M. replied to R.L., with a cc to Matt SHUMAKER at joinmattshu@gmail.com, and asked R.L. to correct misspellings of "hydrogen" and "coronavirus;" and

d. At 3:36pm on March 16, 2020, R.L. mailed a proof with the requested changes to R.L. with a cc to Matt SHUMAKER at joinmattshu@gmail.com.

16. Additional information obtained from ABC shows that the postcard was then mass produced and mailed the following day by ABC, at SHUMAKER's direction, to residents of Georgia, including citizens of the Northern District. In total, ABC mailed three batches of these postcards for SHUMAKER and PLW to approximately 3,518 Georgia residents on March 17, 18 and 20, 2020.

17. ABC then mailed three additional batches of postcards on March 25, 26 and April 1, 2020 to an additional of 2,253 Georgia residents, including citizens who lived in the Northern District. The language "**KILL COVID-19 CORONAVIRUS IN YOUR HOME!!**" was replaced with "Protect your family's

air and surfaces from viruses and bacteria!” but otherwise appeared the same. The change request was received by R.L. on March 24, 2020 at 2:58, via email from Stephen Matthew SHUMAKER at joinmattshu@gmail.com. A true and correct copy of the final proof of the second postcard is immediately below:

PURE AIR. CLEAN SURFACES. INNOVATIVE TECHNOLOGY.

BEYOND GUARDIAN AIR ✓

ActivePure
TECHNOLOGY

CERTIFIED SPACE TECHNOLOGY

ENERGY STAR

✓ Kills every known major viurs including: Staph, E. Coli, Strep, Avian Bird Flu, Hepatitis, Swine Flue, and Norovirus

✓ Utilizing ActivePure® Technology. ActivePure® creates hydrogen peroxide. Hydrogen peroxide is a known killer of **COVID-19, CORONAVIRUS**

Trust DALE
INVESTIGATED
CERTIFIED
GUARANTEED

BBB
ACCREDITED BUSINESS
Rating: A

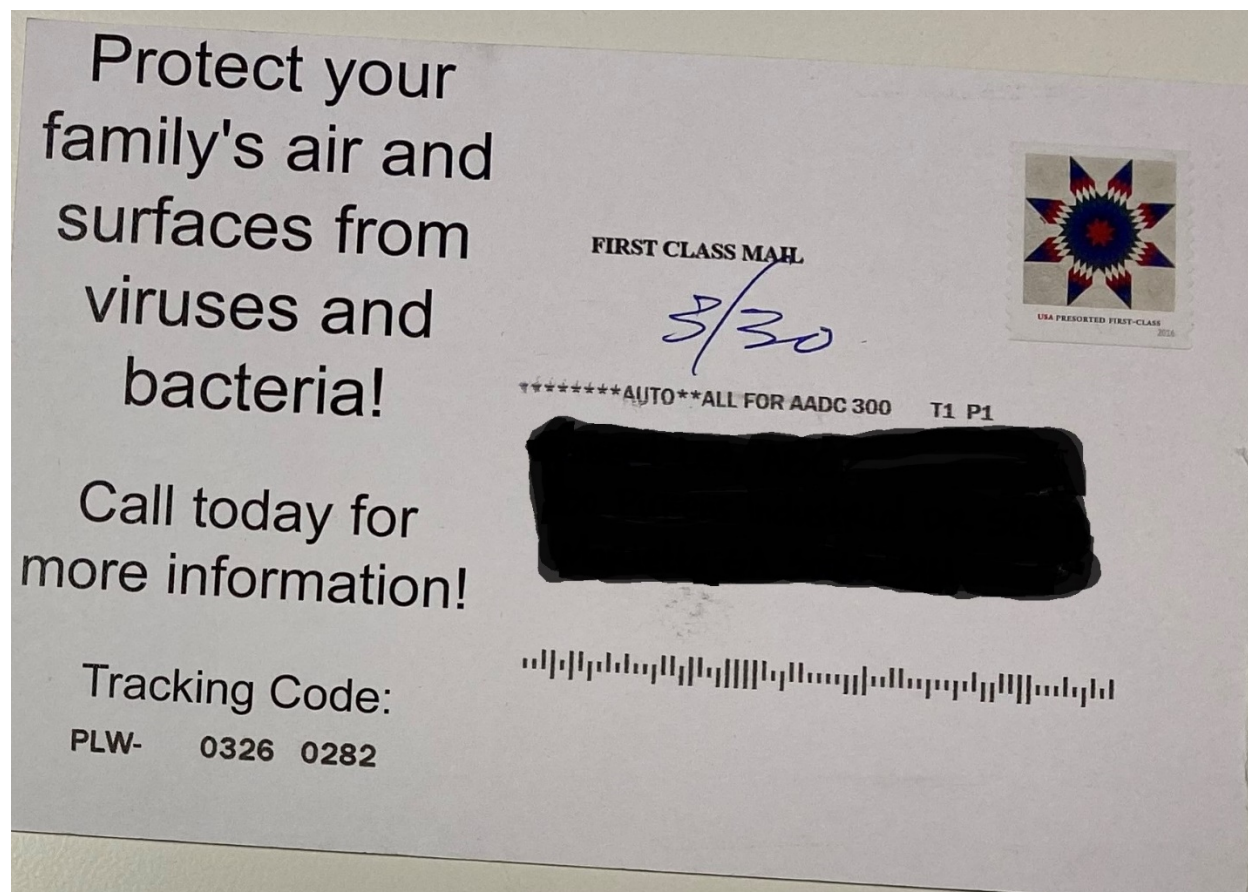
Since May 2018 As of May 18, 2020 Click For Profile
Rating: A

CALL TODAY FOR MORE INFORMATION!!

770-368-6188

CREATE CLEAN AIR FOR LESS THAN \$1 / DAY!!

RESTRICTIONS APPLY | SUBJECT TO APPROVAL



18. In total, ABC produced and mailed 5,777 postcards for SHUMAKER and PLW using SHUMAKER's language and specifications, and at his direction. ABC charged more than \$20,000 for this service, which was paid by a credit card in the name of Matt SHUMAKER, ending in XXXX1009.

19. ABC also confirmed a long-standing business relationship with PLW and SHUMAKER, as its owner. ABC provided an address for PLW and SHUMAKER of 12195 HWY 92 Suite 114-359, Woodstock, GA 30188.

20. I determined that the address 12195 HWY 92 Suite 114-359 Woodstock, GA 30188 is a post box in UPS Store, Store #3513. Post box records show that SHUMAKER opened this mailbox on May 2, 2017 using two forms of identification, a Georgia driver's license and an insurance card. SHUMAKER listed an email address of inmattshu@gmail.com and a telephone number of 404-xxx-8323. In the application SHUMAKER also listed the name PLW, although multiple letters inside the box indicate that both PLW and SHUMAKER, in his individual capacity, use the box to receive mail.

21. One letter in the UPS Store box addressed to PLW has a return name of B.L. with a Lithonia, GA address. I compared B.L.'s name and address with the names and addresses on the postcard mailing list provided by ABC, and I confirmed that B.L. was on the mailing list to receive a postcard with COVID-19/CORONAVIRUS claims.

22. A website for PLW was located at purlifewaterga.com. The website contains information about air filtration products and services, and it has a picture and a description of the DEVICE for sale. The website also identifies 25 cities, all within the Northern District of Georgia, as being in their coverage area. The website lists an address of Woodstock, GA 30188 and a copyright year of 2020. There is also a video link to a 1 min 33 sec "Trust Dale" video on the website. In the video, the speaker identifies himself as Matt SHUMAKER and states that he is the owner of PLW. The website does not contain the claims made on the postcard.

23. A Georgia Driver's license check produced a picture identification of SHUMAKER which matches the person in the purelifewaterga.com video.

24. SHUMAKER's address on his current Georgia driver's license is in Marietta, Georgia. SHUMAKER receives mail addressed to himself and PLW at this address.

25. The principal office address for PLW listed with the Georgia Secretary of State is a duplex residence in a retirement community. A postal carrier confirmed mail is currently delivered to a J. and M. Shumaker at this address, who are believed to be relatives of SHUMAKER.

26. On April 16, 2020, I made an undercover recorded call to the 770-368-6188 phone number listed on the postcards sent by ABC. During the call, a female stated:

So, what they do is they're selling those air filters that purify so you have UV light and it does help to kill any coronavirus, any bacteria, any virus so it keeps your house clean Not only the coronavirus, pretty much everything, anything that has because what it does it purifies, it's kind of big so it does, it kinda absorbs all your air at your house, whichever room you put it in and it does like you know it starts like purifying your air so it goes through different filters and goes through a UV light It's a UV light so when it goes through there it kills anything that goes there so it does protect your family, it does protect yourself.

The female offered me an in-home visit from a representative of Pure Life Water in Woodstock, GA.

27. On April 23, 2020, at 4:22 PM, an undercover agent (UCA) made a phone call to phone number 770-368-6188, which was listed on the post card mailings. A male who identified himself as MIKE answered the phone. UCA stated that he was calling about the DEVICE. MIKE asked UCA where he found the ad for the DEVICE, and UCA advised that it was mailed.

MIKE - "Well, the Beyond Air [DEVICE] produces hydrogen peroxide inside the unit, it has hydroxyls. Hydrogen peroxide is a known killer of the CORONAVIRUS as you know."

UCA- "Hydrogen Peroxide is one of the cures for the CORONAVIRUS right?"

Mike- "Absolutely"

Mike- "We get 30-50 calls a day since this thing has started. We are selling 20 of these units a day right now."

MIKE mentioned that the company's main office was in Woodstock, Georgia. However, he said that their company covered the entire state. After the UCA provided MIKE with the mailing information, MIKE stated that he would call his boss to ask about the total price, which would include the shipping and handling fees.

28. On April 23, 2020, at 4:42 PM, the UCA received a phone call from a male who identified himself as MIKE from Pure Life Air and Water. MIKE

advised UCA that after speaking with his boss, the total cost for the product, including the shipping, would be \$2000.

UCA- "where will the email receipt be coming from?"

MIKE- "it will be coming from Paul the GM. It's

Pxxx.Mxxxxxxx@gmail.com"

MIKE- "the boss, his name is Matt, Matt told me to call GM to run the card."

UCA then asked to confirm which unit he was receiving.

MIKE- "Yes, the Beyond Air purifier [the DEVICE], it has hydroxyls which produce hydrogen peroxide."

Mike also stated that the UCA could go online to their website (purelifewaterga.com) to see a picture of the DEVICE. MIKE stated that the DEVICE would be the same DEVICE as advertised on the postcard received in mail.

29. On April 23, 2020, at 5:17 PM, the UCA received a phone call from a male who identified himself as MIKE:

MIKE- "I spoke with Matt and he said the unit would ship tomorrow and you should get it no later than Tuesday or Wednesday."

UCA- "How confident are you that the unit will fight against CORONAVIRUS"

Mike- "Oh, I'm 1000% positive. Listen, if you opened a window and a cell came into your house, the Beyond Air [DEVICE] will kill it immediately."

30. On April 23, 2020, the UCA received a number of calls from MIKE regarding the UCA's credit card payment and receipt, as well as billing questions relayed from MATT. Ultimately, MIKE suggested he would have MATT call the UCA.

31. On April 24, 2020, at 10:55 AM, the UCA received a phone call from a male who stated his name was Matt SHUMAKER from phone number XXX-8323. This was the same cellphone number that SHUMAKER listed on the post box application for PLW. The following are statements made by SHUMAKER:

"This is Matt SHUMAKER, I am one of the managers at Pure Life Water."

"The Beyond Guardian Air [DEVICE]... creates a current in your house. It's going to ionize the air. And, then it goes into a HEPA filter ... then into a carbon filter ... then into ultraviolet light and then into a honeycomb maker."

"They developed it for the Space Station It produces microscopic hydroxyls, which is hydrogen peroxide. They came out yesterday and said it kills the Coronavirus Virus on the spot. Hydroxyls kills things in the air and on surfaces."

“Someone could sneeze on a remote control that had it [COVID-19]. You pick that remote control, you would be straight, and you’re not going to have a problem.”

“If you do a Google search for things that kill COVID-19, hydrogen peroxide is number two on the list to kill COVID-19. They have done testing on SARS and MRSA which is the same family as COVID-19. It kills it ... we know it just does.”

“I feel incredibly confident. If anything comes in there, it kills it, from magazines, newspapers, to groceries.”

“Every major league baseball clubhouse has it [the DEVICE] in it. The Space Station has it.”

SHUMAKER also stated that he was sending an email to UCA’s email address with a receipt for the purchase of the DEVICE. The UCA asked SHUMAKER whether the item being shipped to the UCA was in fact the DEVICE that was pictured on the mailer, and SHUMAKER confirmed that it was the same DEVICE. SHUMAKER then told the UCA that the DEVICE would be shipping from Kennesaw, Georgia. SHUMAKER stated that the number that he used to call UCA was his cellphone number.

32. The UCA checked his email after the call with SHUMAKER, and observed that he had received an email from an individual named Stephen Matthew SHUMAKER at joinmattshu@gmail.com. The contents of the email contained a merchant receipt from PLW for a purchase on April 23, 2020 at

2:59 p.m. (PDT) in the amount of \$2,000 (USD). The invoice displayed a description of the item purchased as being “Goods or Services.”

33. On April 27, 2020, I retrieved a package addressed to the UCA at the UCA’s postal shipping address within the Northern District of Georgia. The package was delivered by United Parcel Service to the UCA’s post office in Coweta County. The package was addressed to the UCA and showed a return address of 840 Barrett Parkway, Kennesaw, GA 30144.

34. Inside the outer box, was an inner box with a picture and a description of the DEVICE on it. Inside the inner box was the DEVICE. It matched the photograph on the package and the postcards mailed out by ABC. This DEVICE had serial number U30883G on it and a statement that it was manufactured in the Peoples Republic of China (PRC). Many claims were on the packaging and the inside pamphlet; however, there was no claim that the DEVICE killed COVID19 or Coronavirus. The DEVICE was secured in evidence.

35. On April 28, 2020, I entered an Aerus/Electrolux store located at the shipper’s address of 840 Barrett Parkway, Kennesaw, GA 30144. Without identifying myself, I spoke with a sales associate, C.C., about the DEVICE, one of which was on a pedestal in the showroom. C.C. stated that the DEVICE kills many types of viruses but has not been proven in the United States to kill COVID19 or the Coronavirus. C.C. stated it is being currently tested. C.C. stated the units are priced at \$2,000 on sale and normally cost \$2,500. C.C. stated he is selling 40-50 of these DEVICES a week, and the store just received a new

shipment. C.C. stated the unit uses parts (outer shell) from China but is assembled in the United States.

36. According to the EPA, the DEVICE violates FIFRA § 12(a)(1)(F), which makes it unlawful to sell or distribute a pesticide device that is misbranded. Specifically, the device is not labeled in accordance to FIFRA § 2 (q)(1), in that the product label is missing an EPA establishment number.

37. Also according to the EPA, the following statements on the postcards created and mailed by SHUMAKER and PLW through ABC to 5,777 citizens of Georgia, including residents of the Northern District, are false and misleading:

a. "KILL COVID-19 CORONAVIRUS IN YOUR HOME" is false and misleading. SARS-CoV-2, the virus that causes Covid-19, is currently only available for testing in laboratories as a test organism. Efficacy testing, which is necessary in order for a seller of a device to make such claims, has only recently become possible. To date, the EPA has not received any efficacy studies using SARS-CoV-2. For this reason, no sellers of pesticide products or pesticide devices were able to make a claim that a product or device could kill Covid-19 at the time of the mailing or the multiple phone calls described above.

b. "Kills every major viral and bacterial infection including Staph, E. Coli, MRSA, Strep, Avian Bird Flu, Hepatitis, Swine Flu, and Norovirus" is false and misleading because it is simply not possible to know if a device is capable of killing "every known major viral and bacterial infection ..."

c. "ActivePure creates hydrogen peroxide. Hydrogen peroxide is a known killer of COVID-19, CORONAVIRUS" is false and misleading because, while

some hydrogen peroxide-containing products meet EPA's criteria for use against SARS-CoV-2, the virus that causes Covid-19, there are other factors that contribute to the efficacy of a pesticide product, such as the concentration of the active ingredient (hydrogen peroxide) and the contact time, specified on the product label as the time that the product must remain wet in order to kill the target organism, none of which have been shown to exist for this DEVICE.

d-. "Protect your family's air and surfaces from viruses and bacteria!" is false and misleading because the statement implies that the DEVICE alone will protect the air and surfaces from viruses and bacteria with no additional pesticide products needed. There is no underlying proof that the substance produced by the DEVICE protects surfaces from viruses and bacteria. In the EPA's experience, additional pesticidal products would be needed to treat surfaces. There are currently no EPA registered disinfectant products for use on air.

REQUEST TO SEAL

38. Because this investigation is ongoing, disclosure of this Affidavit, and/or the application and the attachments, could jeopardize the progress of the investigation. Premature disclosure of the content of this Affidavit could alert the target(s) of the investigation, and any potential co-conspirators or accomplices to the status of the investigation to date, and could compromise the government's on-going investigation, such as by possibly leading the target(s), co-conspirators, or accomplices to flee, or to remove, destroy, or alter evidence.

Accordingly, I respectfully request that the arrest warrant, this Affidavit, and all attachments thereto are sealed until further order of this Court.

CONCLUSION

39. Based on the above information, I respectfully submit there is probable cause to believe that Stephen Matthew SHUMAKER, a/k/a Matt SHUMAKER is engaging in a scheme to defraud using false pretenses, representations and promises and the use of the mails (18 U.S.C Section 1341); and is knowingly distributing and selling a device that is misbranded contrary to law (7 U.S.C. §§ 136j(a)(1)(F), and 136l(b)(1)(B).