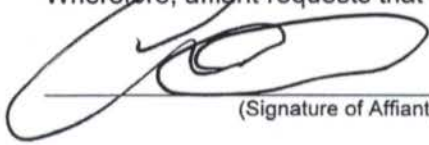


FILED  
SUPERIOR COURT  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT  
SEP 16 2014

STATE OF CALIFORNIA – COUNTY OF SAN BERNARDINO  
**SEARCH WARRANT AND AFFIDAVIT  
(AFFIDAVIT)**

Detective Edward Bachman swears under oath that the facts expressed by him/her in this Search Warrant and Affidavit and in the attached and incorporated statement of probable cause are true and that based thereon he/she has probable cause to believe and does believe that the property and/or person described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

  
\_\_\_\_\_  
(Signature of Affiant)

HOBBS SEALING REQUESTED:  YES  NO  
NIGHT SEARCH REQUESTED:  YES  NO

**(SEARCH WARRANT)**

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICE OFFICER, OR PEACE OFFICER IN THE COUNTY OF SAN BERNARDINO: proof by affidavit having been made before me by Edward Bachman.

that there is probable cause to believe that the property and/or person described herein may be found at the locations set forth herein and is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x" (s) in that:

- it was stolen or embezzled
- it was used as the means of committing a felony
- it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery
- it tends to show that a felony has been committed or that a particular person has committed a felony
- it tends to show that sexual exploitation of a child, in violation of Section 311.3, or depiction of sexual conduct of a person under the age of 18 years, in violation of 311.11, has occurred or is occurring
- there is a warrant for the person's arrest

**YOU ARE THEREFORE COMMANDED TO SEARCH:** (Premises, Vehicles, and Persons.)

XO Communications  
Legal Compliance Team  
105 Malloy Street  
Nashville, Tennessee 37201  
(615) 777-7879

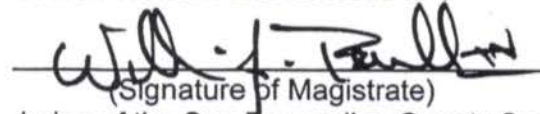
**FOR THE FOLLOWING PROPERTY/PERSON:**

Subscriber names and addresses and customer service records for the following telephone numbers:

**(407) 517-6307**

The requested information is needed for the billing month of **February 1, 2010** through **February 28, 2010**.

**AND TO SEIZE IT IF FOUND** and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to as true and subscribed before me this 16<sup>th</sup> day of September, 2014, at 145 AM PM. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

  
\_\_\_\_\_  
(Signature of Magistrate)

Judge of the San Bernardino County Superior Court  
San Bernardino Superior Court Central Division





FILED  
SUPERIOR COURT  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT  
SEP 16 2014

SBSW 14-1298

STATE OF CALIFORNIA – COUNTY OF SAN BERNARDINO  
**SEARCH WARRANT AND AFFIDAVIT  
(AFFIDAVIT)**

**EXPERTISE OF AFFIANT**

My name is Edward Bachman. I am currently employed as a peace officer with the San Bernardino County Sheriff's Department and has been a peace officer for approximately 10 ½ years. My present assignment is at the Specialized Investigations Division-Homicide Detail. Your affiant, Edward Bachman, is and has been a duly authorized Deputy Sheriff for the County of San Bernardino since March of 2003. Your affiant has investigated or worked cases involving misdemeanors and felony crimes, including but not limited to crimes against persons, crimes against property, driving under the influence, narcotics violations, and crimes where persons were arrested and property was recovered. Further, your affiant regularly consults with experienced supervisors and investigators and has consulted with them on this case.

Your affiant has attended the San Bernardino County Sheriff's Basic Academy and holds a Basic P.O.S.T. certificate. Your affiant has attended Advanced Officers Class, Field Training Officer School, Cal Gangs, Advanced Gang Awareness, Gang Investigations, Parole Leads, Drug Influence Recognition, Basic Traffic Investigation, Intermediate Traffic Investigation, Advanced Traffic Investigation, Pursuit Intervention Techniques, Interview and Interrogation, and Advanced Building Search class. Your affiant has investigated property crime cases that involved the identifying and recovery of stolen property. Your affiant has attended a Drug Influence Recognition course, investigated and arrested over 75 subjects for possession of illegal narcotics, and investigated and arrested in excess of 20 subjects for possession for sales of illegal narcotics and sales of illegal narcotics. Your affiant has received training in and investigated crimes including illegal firearms, burglary, grand theft, identity theft, elderly abuse, credit card fraud, forgery, rape, battery, and crimes against children. Your affiant has participated and written numerous search warrants where evidence related to these types of crimes was seized. Your affiant has interviewed suspects involved in these crimes and learned why they were committed, how they were committed and what was done with the stolen property or proceeds.

The Affiant has specific training by the San Bernardino County Sheriff's Academy 2003 and personal experience with electronic storage devices and storage media which has taught him and caused him to have the opinion that electronic storage devices such as: wireless/cellular telephones, cordless telephones, pagers, digital cameras, video recorders, audio recorders, computer hardware, fax machines, personal data assistants, software, documentation, passwords, and data security devices may be important to a criminal investigation in two distinct and important respects:

1. The objects themselves may be instrumentalities, fruits, or evidence of crime, and/or
2. The objects may have been used to collect and store information about crimes in the form of electronic data. Both state and federal procedures permit the government to search and seize electronic storage devices, software, documentation, passwords and data security devices which are:
  - A) Instrumentalities, fruits, or evidence of the crime; and/or Storage devices for information about crime.



STATE OF CALIFORNIA – COUNTY OF SAN BERNARDINO  
**SEARCH WARRANT AND AFFIDAVIT  
(ATTACHMENT)**

**STATEMENT OF PROBABLE CAUSE:**

On Monday, November 11, 2013, at about 1000 hours, Deputies from the Victorville Sheriff's station responded to a call of possible human remains found in the desert area near Stoddard Wells Road and Quarry Road, Victorville.

Coroner Investigator Andy Avery responded to the scene and identified what appeared to be the partial skull of a child. The partial skull was bleached white due to exposure to the elements for an undetermined amount of time. The skull contained the upper portion of the orbital sockets and nasal cavity.

Based on this information, Avery requested the assistance of Forensic Anthropologist Dr. Alexis Gray.

Avery and Gray conducted an area search and found additional human remains exposed to the elements and two shallow graves. The Sheriff's Department Homicide Detail was notified and assumed the investigation on Tuesday, November 12, 2013.

Homicide investigators and Coroner's personnel excavated the two graves and found the remains of three additional bodies. The human remains of the four bodies were later matched and identified to Joseph McStay, Summer McStay, Gianni McStay and Joseph McStay Jr [The McStay Family] through dental records and deoxyribonucleic (DNA) comparison.

The McStay family lived in Fallbrook, CA and were reported missing to the San Diego Sheriff's office on February 15, 2010. Joseph Sr. had an Internet fountain business named Earth Inspired Products (EIP).

On Wednesday, November 13, 2013, San Diego Sheriff's Office (SDSO) investigators met with San Bernardino County Sheriff's Department (SBCSD) investigators. During the meeting, SDSO Sergeant Patrick Gardner called SDSO lead investigator of the missing persons' investigation, Detective Troy DuGal, and put him on speaker. DuGal briefed SBCSD homicide investigators and Gardner provided us copy of their missing persons report related to the McStay Family. SDSO investigators conducted an extensive search for the McStay family to no avail.

On Thursday and Friday, November 14 and 15, 2013, Dr. C. Changsri conducted an autopsy of Joseph Sr., Summer, Gianni, and Joseph McStay Jr. Changsri ruled Joseph, Summer, and Gianni McStay's cause of death to be blunt force and multiple blunt force trauma to the head, and the manner of death a homicide.

The McStay family were thought to have been missing since February 4, 2010 based on the last communications with family and Joseph's co-workers and their cell phone activity, but were not reported missing until February 15, 2010. Joseph McStay was found to own and use a T-Mobile cell phone (949) 295-7451. Summer McStay was found to own and use an AT&T cell phone (949) 295-6411.

During the missing person investigation, San Diego County Sheriff's investigators interviewed Charles "Chase" Merritt. Merritt, Joseph and Daniel Kavanaugh partnered together in Joseph's business, Earth Inspired Products (EIP). EIP was a water fountain design and distribution company started by Joseph. Merritt was hired as a designer/builder of the custom fountains sold by EIP.

During the missing person investigation, San Diego County Sheriff's investigators learned the McStay's Isuzu Trooper was found and towed on February 8, 2010, in a parking lot in San Ysidro. Investigators towed the vehicle and authored a search warrant for the vehicle, during which they collected DNA swabs, fingerprint lifts and searched the vehicle.



STATE OF CALIFORNIA – COUNTY OF SAN BERNARDINO  
**SEARCH WARRANT AND AFFIDAVIT  
(ATTACHMENT)**

**STATEMENT OF PROBABLE CAUSE CONTINUED:**

Through investigation conducted by San Diego County Sheriff's and San Bernardino County Sheriff's investigators, it was learned Merritt was the last person to see and talk to Joseph alive. Merritt met with Joseph at "Chick-fil-a" restaurant, in Rancho Cucamonga. Merritt told investigators he and Joseph discussed business dealings.

Cell phone records indicated Joseph left the meeting and drove to his residence in Fallbrook. At 2028 hours, Joseph called Merritt and they spoke about a fountain being fabricated for a company in Saudi Arabia. Per cell phone records, this was the last activity on Joseph's cell phone. Merritt claimed he attempted to call Joseph several times in the days following the McStay family disappearance, but could not locate them. Merritt was the first person to respond to the McStay residence after their disappearance in an attempt to locate them and believed it was on either February 9 or 10, 2010, but was unable to locate them.

On Thursday, February 20, 2014, Detective Armando Avila received a DNA analysis result report, for DNA swabs collected from the McStay's Isuzu Trooper. San Bernardino County Sheriff's criminalists analyzed DNA samples collected from various items of evidence, including swabs collected from the Trooper. During the analysis, criminalists matched DNA collected from the Trooper to Merritt. Merritt's DNA was collected during the missing person investigation by San Diego County Sheriff's Detective Troy DuGall, via buccal swab. The DNA swabs matching Merritt were collected from the steering wheel, 4x4 shifter, and radio/AC control panel.

Merritt was interviewed several times by San Diego County Sheriff's investigators during the missing person investigation. During an interview on February 17, 2010, Merritt told San Diego County Sheriff's investigators he was last in the Isuzu Trooper approximately 6 weeks prior to the McStay family disappearance. Merritt rode with Joseph in the Trooper and sat in the passenger seat. Merritt told investigators he had never driven the Trooper. Merritt had a fresh injury to his hand, which he claimed happened when he cut his hand on sheet metal. Merritt made several statements about Joseph in past tense, including "Joseph was," leading investigators to believe Merritt knew Joseph and family were deceased.

In subsequent interviews with Merritt, he told San Diego County Sheriff's investigators he did not like Summer. Merritt also told investigators he did not like Kavanaugh and stated, "If I were ever going to commit murder it would be with him," referring to harming Kavanaugh. At the time of Merritt's statement, no evidence of foul play was found in the McStay family disappearance which would warrant a statement from Merritt.

According to Kavanaugh, Joseph lent Merritt \$30,000 to pay a gambling debt Merritt incurred. Kavanaugh told San Diego County investigators Joseph planned to fire Merritt.

During the investigation, Merritt provided San Diego County Sheriff's Department investigators with a contact phone number (909) 374-0102. Merritt claimed this was his cell phone and investigators contacted him several times on the number. Merritt has an extensive criminal record and has served multiple prison terms

On Friday, February 21, 2014, I called AT&T wireless to confirm ownership of the phone (909) 374-0102. Per AT&T, they owned the phone number at the time of the McStay family disappearance and coincidentally, the phone service was disconnected shortly after the family went missing. As of the

STATE OF CALIFORNIA – COUNTY OF SAN BERNARDINO  
**SEARCH WARRANT AND AFFIDAVIT  
(ATTACHMENT)**

telephone call, AT&T still possessed cell phone records and subscriber information for the requested time period. Phone records show Merritt in the area where the gravesites were located within days after the disappearance.

I analyzed Merritt's telephone records and learned Merritt was in close contact with his girlfriend at the time, Catherine Jarvis. Through Merritt's cell phone records and information given by Jarvis to San Diego Sheriff's personnel, Jarvis was found to have telephone(s) (909) 226-1197 and (909) 374-8951 on her account. There were several telephone calls between Merritt and Jarvis made around the time of the family's disappearance. I authored a court order for Jarvis' telephone records to attempt to further corroborate statements made by Merritt regarding him and Jarvis' whereabouts around the time of the disappearance. The phone records show conflicting information as to Merritt's and Jarvis' whereabouts per their statements.

I received the telephone records for the McStay's, Merritt and Jarvis and learned there were several calls made by all parties between February 3<sup>rd</sup> and February 9<sup>th</sup>, 2010, which I could not identify the subscribers. Your affiant is requesting the issuance of this search warrant for subscriber information for the unidentified numbers, in an effort to develop additional investigative leads that may assist in this murder investigation of the McStay family members, Joseph, Summer, Gianni and Joseph McStay Jr.. The leads may show additional involved witnesses or suspects in the homicide. I request Hobbs' sealing of the search warrant to protect known facts of the case, based on the fact the case is an ongoing homicide investigation.



FILED  
SUPERIOR COURT  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT  
SEP 16 2014

STATE OF CALIFORNIA, COUNTY of SAN BERNARDINO, 14-1299

DECLARATION and REQUEST for ORDER

SEALING the AFFIDAVIT or PORTION of the AFFIDAVIT

Your Affiant, **Detective Edward Bachman**, requests that the following portion of the Search Warrant Affidavit / Statement of Probable Cause be ordered sealed by the Magistrate in order to implement the privilege under Evidence Code Sections 1040 to 1042 and to protect the identity of any confidential informant(s) and/or official information, pursuant to the Supreme Court decision in *People v. Hobbs* (1994) 7 Cal. 4<sup>th</sup> 948, and California Rule of Court Rule 243.1, subd. (d).

**Pages 4-6 Statement of Probable Cause**

If any of the information within the requested sealed portion of the Affidavit / Statement of Probable Cause is made public, it will reveal or tend to reveal the identity of any confidential informant(s), imp-air further related investigations and endanger the life of the confidential informant(s).

I declare under penalty of perjury that the related foregoing is true and correct to the best of my knowledge.

 \_\_\_\_\_, 16 day of **September**, 2014, at 1:34 A.M. (P.M.)  
Signature of Affiant


**ORDER**

Based upon a review of the Search Warrant Affidavit this court finds that there exists an overriding interest that overcomes the right of public access to the record; the overriding interest supports sealing the record; a substantial probability exists that the overriding interest will be prejudiced if the record is not sealed; the proposed sealing is narrowly tailored; an no less restrictive means exist to achieve the overriding interest.

Therefore it is ordered that the following portion of the Search Warrant Affidavit / Statement of Probable Cause identified as the "Confidential Attachment" be sealed and kept in the custody of the Affiant's law enforcement agency and not be made part of the public record until further order of this court or any competent court.

 \_\_\_\_\_, 16<sup>th</sup> day of **September**, 2014, at 1:45 A.M. (P.M.)  
(Signature of Magistrate)

Judge of the Superior Court of California, County of **San Bernardino**, **Central Superior Court**, Dept. 518.

 \_\_\_\_\_  
(Printed Name of Magistrate)

**TOWELL**



**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

STATE OF CALIFORNIA - COUNTY OF SAN BERNARDINO

**SEARCH WARRANT AND AFFIDAVIT**

**(RETURN)**

SBSW 14-1299

NOV 26 2014

**RETURN TO SEARCH WARRANT**

BY

*Heather Smith*  
HEATHER SMITH, DEPUTY

**DR#071304411**

The following items were recovered from 8x8 Corporation, by virtue of a Search Warrant dated the 16<sup>th</sup> day of September, 2014, and signed by the Honorable, William Powell, Judge of the Superior Court of the Central Judicial District, County of San Bernardino, State of California.

**ITEMS TAKEN:**

1. Requested Phone records

A receipt for the above material was left at the residence during the service of the warrant. (or posted at the aforementioned residence) prior to said Officer leaving the premises . . . Items 1-1.

I, Edward Bachman, Detective by whom this warrant was executed; do swear that the above inventory contains a true and detailed account of all the property taken by me under the warrant.

I also ask permission to dispose of property upon disposition of the case, without any further order of the court.

*[Handwritten Signature]*

\_\_\_\_\_  
Officer Making Return to Search Warrant

Subscribed and sworn to before me this 18<sup>th</sup> day of November, 2014.



*[Handwritten Signature]*

\_\_\_\_\_  
Judge of the Superior Court  
County of San Bernardino  
State of California



FILED  
SUPERIOR COURT  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT  
SEP 16 2014

STATE of CALIFORNIA, COUNTY of SAN BERNARDINO, 14 - 1299  
DECLARATION and REQUEST for ORDER  
SEALING the AFFIDAVIT or PORTION of the AFFIDAVIT

BY *[Signature]* DEPUTY

Your Affiant, **Detective Edward Bachman**, requests that the following portion of the Search Warrant Affidavit / Statement of Probable Cause be ordered sealed by the Magistrate in order to implement the privilege under Evidence Code Sections 1040 to 1042 and to protect the identity of any confidential informant(s) and/or official information, pursuant to the Supreme Court decision in *People v. Hobbs* (1994) 7 Cal. 4<sup>th</sup> 948, and California Rule of Court Rule 243.1, subd. (d).

**Pages 4-6 Statement of Probable Cause**

If any of the information within the requested sealed portion of the Affidavit / Statement of Probable Cause is made public, it will reveal or tend to reveal the identity of any confidential informant(s), imp-air further related investigations and endanger the life of the confidential informant(s).

I declare under penalty of perjury that the related foregoing is true and correct to the best of my knowledge.

*[Signature]*

\_\_\_\_\_, 16 day of **September, 2014**, at 1343 A.M. (P.M.)  
Signature of Affiant

**ORDER**

Based upon a review of the Search Warrant Affidavit this court finds that there exists an overriding interest that overcomes the right of public access to the record; the overriding interest supports sealing the record; a substantial probability exists that the overriding interest will be prejudiced if the record is not sealed; the proposed sealing is narrowly tailored; an no less restrictive means exist to achieve the overriding interest.

Therefore it is ordered that the following portion of the Search Warrant Affidavit / Statement of Probable Cause identified as the "Confidential Attachment" be sealed and kept in the custody of the Affiant's law enforcement agency and not be made part of the public record until further order of this court or any competent court.

*[Signature]*, 16<sup>th</sup> day of **September, 2014**, at 145 A.M. (P.M.)  
(Signature of Magistrate)

Judge of the Superior Court of California, County of **San Bernardino, Central Superior Court**, Dept. 518.

*[Signature]* **BOWELL**  
(Printed Name of Magistrate)





FILED  
SUPERIOR COURT  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT  
SEP 16 2014

STATE OF CALIFORNIA – COUNTY OF SAN BERNARDINO  
**SEARCH WARRANT AND AFFIDAVIT  
(AFFIDAVIT)**

BY Edward Bachman Detective Edward Bachman swears under oath that the facts expressed by him/her in this Search Warrant and Affidavit and in the attached and incorporated statement of probable cause are true and that based thereon he/she has probable cause to believe and does believe that the property and/or person described below is lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and is now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

HOBBS SEALING REQUESTED:  YES  NO  
NIGHT SEARCH REQUESTED:  YES  NO

*[Handwritten Signature]*  
\_\_\_\_\_  
(Signature of Affiant)

**(SEARCH WARRANT)**

THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY SHERIFF, POLICE OFFICER, OR PEACE OFFICER IN THE COUNTY OF SAN BERNARDINO: proof by affidavit having been made before me by Edward Bachman,

that there is probable cause to believe that the property and/or person described herein may be found at the locations set forth herein and is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "x" (s) in that:

- \_\_\_\_\_ it was stolen or embezzled
- it was used as the means of committing a felony
- \_\_\_\_\_ it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery
- it tends to show that a felony has been committed or that a particular person has committed a felony
- \_\_\_\_\_ it tends to show that sexual exploitation of a child, in violation of Section 311.3, or depiction of sexual conduct of a person under the age of 18 years, in violation of 311.11, has occurred or is occurring
- \_\_\_\_\_ there is a warrant for the person's arrest

**YOU ARE THEREFORE COMMANDED TO SEARCH:** (Premises, Vehicles, and Persons.)

8x8 Corporation  
Attention: Custodian of Records  
3151 Jay Street  
Santa Clara, California 95054  
(408) 727-1885

**FOR THE FOLLOWING PROPERTY/PERSON:**

Subscriber names and addresses and customer service records for the following telephone numbers:  
**(949) 274-4674**

The requested information is needed for the billing month of **February 1, 2010** through **February 28, 2010**.

**AND TO SEIZE IT IF FOUND** and bring it forthwith before me, or this court, at the courthouse of this court. This Search Warrant and incorporated Affidavit was sworn to as true and subscribed before me this 16th day of September, 2014, at 145 AM / (PM) Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

*[Handwritten Signature]*  
\_\_\_\_\_  
(Signature of Magistrate)  
Judge of the San Bernardino County Superior Court  
San Bernardino Superior Court, Central Division

