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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS : CRIMINAL TERM, PART K-6

-----X
THE PEOPLE OF THE STATE OF NEW YORK,

-against-

ORDER TO SHOW CAUSE

KAREEM BUDDINGTON,

Indictment # N10642-2010

Defendant,

MAGNIFICENT 7s ENTERPRISES, INC.,
MIKE LAROCCA,

Non-Party Respondents.

-----X
UPON the annexed affirmation of PATRICK MICHAEL MEGARO, ESQ., together with the exhibits annexed thereto, and upon the attached Subpoena Duces Tecum and proof of service thereof, and upon all prior proceedings heretofore had herein,

LET the Non-Party Respondents, **MAGNIFICENT 7s ENTERPRISES, INC.**, and **MIKE LAROCCA**, or their attorney,

SHOW CAUSE before the Court, at the Courthouse, **Criminal Term Part K-6** thereof, located at **125-01 Queens Boulevard, Kew Gardens, New York 11415** on the **8th** day of **March, 2011, at 9:30 a.m.** of that day, or as soon thereafter as counsel can be heard:

1. Why an Order of Contempt should not be issued pursuant to Judiciary Law §§ 750, 751, Criminal Procedure Law § 610.20, CPLR §§ 2307, and Penal Law § 215.50 in response to disobedience and the refusal by the Non-Party Respondents to comply with a properly served Subpoena Duces Tecum, attached hereto and incorporated by reference, or in the alternative,

2. Why an Order should not be entered, compelling the Non-Party Respondents to comply with the attached Subpoena Duces Tecum, properly served upon Non-Party Respondents on or about February 12, 2011 or in the alternative, be held in contempt for the unjustified failure to obey the Subpoena Duces Tecum.

3. Why Defendant should not have such other and further relief as this Court deems just and proper.

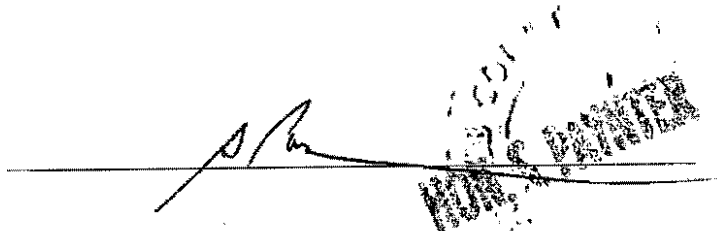
ORDERED that, sufficient reason appearing therefore, personal service of a copy of this order and the supporting affirmation upon which it is granted upon

Mike Larocca
461 Lakeville Lane
East Meadow, New York 11554

Magnificent 7s Enterprises, Inc.
1085 Beach 21st Street
Far Rockaway, New York 11691

on or before the 1 day of March, 2011, be deemed sufficient service thereof.

Dated: Kew Gardens, New York

A handwritten signature in black ink is written over a horizontal line. To the right of the signature is a circular stamp with some illegible text and a date.

Supreme Court Justice

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS : CRIMINAL TERM, PART K-6

-----X
THE PEOPLE OF THE STATE OF NEW YORK,

-against-

AFFIRMATION IN SUPPORT OF
ORDER TO SHOW CAUSE

KAREEM BUDDINGTON,

Indictment # N10642-2010

Defendant,

MAGNIFICENT 7s ENTERPRISES, INC.,
MIKE LAROCCA,

Non-Party Respondents.

-----X
PATRICK MICHAEL MEGARO, an attorney duly admitted to practice law before the
Courts of the State of New York, hereby affirms as follows:

1. I am the attorney of record for the Defendant herein. This is an application for this Court to Compel the Non-Party Respondents to comply with a duly issued Subpoena Duces Tecum, or in the alternative, hold the Non-Party Respondents in Contempt for its willful disobedience and failure to comply with a duly issued Subpoena Duces Tecum.

2. As the Court is aware, on February 1, 2011 Police Officer Glenn Ziminski testified as a witness for the People that on November 10, 2010 he effected a car stop of a cab in which my client was a passenger after the cab driver allegedly committed a traffic infraction. According to his testimony, the car stop led to a search, which led to the recovery of the marijuana that is the subject of this Indictment. Officer Ziminski did not know the name of the driver, nor was the name of the driver recorded on any of the paperwork that was turned over to me as Rosario material. (Copies of the minutes of the February 1, 2011 hearing are attached as Exhibit A).

3. However, a printout of the registration of the cab was provided as part of the Rosario material, which led to a company that has been dissolved. Further investigation by the defense

revealed that the cab in which the Defendant was arrested is owned and operated by Magnificent 7s Enterprises, Inc.

4. I have made several attempts to secure the name and contact information of the driver of the cab. I have called and left several messages with the dispatcher of Magnificent 7s cab company, none of which have been returned. On February 12, 2011, I served the within Subpoena Duces Tecum upon Magnificent 7s Enterprises, Inc. at its place of business in Far Rockaway, Queens, as well as Mike Larocca, the owner and president of Magnificent 7s Enterprises, Inc., at his actual place of above in East Meadow, Nassau County. Copies of the Subpoena Duces Tecum and proof of service are attached hereto as Exhibit B.

5. The Subpoena Duces Tecum was returnable on February 14, 2011, the date selected to continue the suppression hearing with the defense case. On that day, neither Mike Larocca nor any representative for Non-Party Respondents appeared in court or otherwise responded to the Subpoena Duces Tecum.

6. This Subpoena Duces Tecum seeks contact information for the driver of a 2005 Ford Crown Victoria, License Plate # T52530C, VIN # 2FAHP71W35X102269 on November 12, 2010 between the hours of 12:35 and 12:45 a.m. in the vicinity of the intersection at Dickens Street and Mott Avenue in Far Rockaway, Queens County, as well as certain other business records of the Non-Party Respondents that will corroborate facts and testimony of the driver that will be favorable to the Defendant in this suppression hearing. Upon information and belief, the driver's testimony and evidence will contradict the testimony of Police Officer Glenn Ziminski and provide this Court with evidence that proves that the stop of the car was unlawful and a violation of the Defendant's Fourth Amendment rights. This information will enable the defense to call a live witness to testify on behalf of the Defendant. The information sought by this

Subpoena Duces Tecum is not privileged and would be admissible and highly relevant to the issues to be decided by this Court in connection with the Defendant's motion to suppress physical evidence.

7. On the last court date of February 14, 2011, this Court stated on the record that it did not intend to indefinitely postpone the continuation of the suppression hearing because of unavailability of defense witnesses. Application by Order to Show Cause is necessary because the Defendant will be unduly prejudiced by any further delay in the unlawful retention of the subject matter of the Subpoena Duces Tecum, and because proceeding by Order to Show Cause is specifically authorized by Judiciary Law § 750.

8. Criminal Procedure Law § 610.20(3) permits an attorney for a defendant in a criminal action, as an officer of a criminal court, to issue a subpoena to compel the attendance of witnesses at any proceeding in which the defendant is entitled to call a witness. Upon such issuance and proper service, a defense-issued subpoena becomes a mandate of the court. CPL § 610.20(3), Judiciary Law § 750, General Construction Law § 28-a, Application of Davis, 88 Misc. 2d 938 (N.Y.C. Crim. Ct. 1976) (Berman, J.). Further, in all criminal prosecutions, the Sixth and Fourteenth Amendments of the United States Constitution as well as Article I, § 6 of the New York State Constitution and Civil Rights Law § 12 guarantee the defendant the right to compulsory process of witnesses and documentary evidence that might be favorable to the defendant. United States v. Nixon, 418 U.S. 683 (1974); Washington v. Texas, 388 U.S. 14 (1967), Pennsylvania v. Ritchie, 480 U.S. 39, 56 (1987).

9. Non-Party Respondents have failed to take any lawful steps to challenge the Subpoena Duces Tecum or to request this court to rescind or modify its mandate. This refusal to comply represents a unilateral decision on the part of the Non-Party Respondents to ignore a

lawful process of the Court.

10. Since Non-Party Respondents have chosen to ignore the mandate of this Court rather than to comply with it or move to quash it, it has subjected itself to the inevitable consequences of this action; to be held in Contempt of Court.

WHEREFORE, for all the reasons stated herein, Defendant requests that this Court find Non-Party Respondents in Contempt of Court for unjustifiably ignoring the mandate of this order in the form of a signed, judicially mandated So-Ordered Subpoena Duces Tecum, and grant Defendant such other and further relief as this Court deems just and proper.

Dated: Uniondale, New York
February 14, 2011



PATRICK MICHAEL MEGARO, ESQ.

EXHIBIT A

1 SUPREME COURT OF THE STATE OF NEW YORK

2 COUNTY OF QUEENS: CRIMINAL TERM: PART K6

3 -----x
4 THE PEOPLE OF THE STATE OF NEW YORK,

5 -against-

Indictment No.
N10642/10
HEARING

6 KAREEM BUDDINGTON,

Defendant.

7 -----x

February 1, 2011
125-01 Queens Boulevard
Kew Gardens, New York 11415

8
9
10 B E F O R E:

11 THE HONORABLE STEVEN J. PAYNTER

12 A P P E A R A N C E S:

13 RICHARD A. BROWN, ESQ.,
14 District Attorney, Queens County
BY: MICHAEL WHITNEY, ESQ.
Assistant District Attorney

15 PATRICK MICHAEL MEGARO, ESQ.,
16 Attorney for the Defendant

17
18
19
20
21
22
23
24 Nancy Samms,
Senior Court Reporter

25

1 THE COURT CLERK: Number nine on the calendar,
2 Kareem Buddington, N10642 of 2010.

3 MR. MEGARO: Patrick Michael Megaro for Mr.
4 Buddington.

5 MR. WHITNEY: For the People, Michael Whitney.
6 Good afternoon.

7 THE COURT: Good afternoon. Why is this the first
8 time we are calling this case today?

9 MR. MEGARO: I had an issue with a family member
10 and a doctor's visit earlier this morning. I told
11 Mr. Whitney late yesterday that I would be coming in late,
12 and I asked a colleague, Mr. Frederick, to come in and pass
13 the word along to the clerk. When he came in the clerk was
14 not in the courtroom. I think he left a message with one of
15 the court officers.

16 THE COURT: That's not good enough. You don't
17 leave it with a colleague. You follow up on this yourself or
18 follow up on the colleague whether he got the message to the
19 court and, if not, you call the court at 9:30. Got that?

20 MR. MEGARO: Understood, your Honor.

21 THE COURT CLERK: Was there a clerk in the
22 courtroom at 12:15?

23 THE COURT OFFICER: Yes.

24 THE COURT CLERK: There was a clerk here at 12:15,
25 so I don't understand the commentary about no clerk being

1 here.

2 MR. MEGARO: I'm sorry. I meant --

3 THE COURT: People call the first witness.

4 MR. WHITNEY: The People call Glenn Ziminski.

5 MR. MEGARO: Before we begin, I notified

6 Mr. Whitney there is a potential defense witness yet to be
7 identified for the hearing. The case involves the stop of a
8 livery cab which my client was a passenger. I do not know
9 the name of the driver nor does Mr. Whitney, but I suspect
10 the officer knows.

11 I do have the name of the company that was just
12 handed over to me in the Rosario that lists the name of the
13 company for which I am assuming the driver was working for,
14 but I intend to call the driver.

15 THE COURT: Then you will need a continuance for
16 your case.

17 People, call your first witness.

18 MR. WHITNEY: The officer does not have that name,
19 either.

20 THE COURT: Call your first witness.

21 MR. WHITNEY: Glenn Ziminski.

22 (Whereupon, there was a brief pause in the
23 proceedings.)

24 P.O. G L E N N Z I M I N S K I, having been duly sworn, was
25 examined and testified as follows:

1 THE COURT OFFICER: The People call New York City
2 Police Officer Glenn Ziminski, Z-I-M-I-N-S-K-I, shield number
3 31231, from the 101 Precinct Anti-Crime Unit.

4 THE COURT: Officer, this microphone moves up and
5 down and sideways, pull up and speak a couple of inches away.
6 You may inquire.

7 MR. WHITNEY: Thank you.

8 DIRECT EXAMINATION

9 BY MR. WHITNEY:

10 Q Good afternoon.

11 A Good afternoon.

12 Q Who do you work for?

13 A The New York City Police Department.

14 Q How long have you worked for the NYPD for?

15 A Five years.

16 Q What command do you currently work for?

17 A 101 Precinct.

18 Q I would like to direct your attention to November 10th
19 about 12:35 in the morning, were you working on that date?

20 A Yes.

21 Q What was your assignment?

22 A I was assigned as anti-crime officer.

23 Q What were you doing that night?

24 A Routine patrol.

25 Q Did you have a partner?

1 A Yes.

2 Q What was your partner's name?

3 A Sergeant Patrick Cane.

4 Q Were you in a marked or unmarked car?

5 A Unmarked.

6 Q Were you in uniform or plainclothes?

7 A Plainclothes.

8 Q Inside your unmarked car, where were you?

9 A I was the passenger.

10 Q Sergeant Cane was driving?

11 A Correct.

12 Q Where specifically were you in the vicinity -- well,
13 withdrawn. Where were you at about 12:35 in the morning on that
14 night?

15 A We were in the vicinity of 2288 Mott Avenue.

16 THE COURT: 2288 --

17 THE WITNESS: Mott Avenue.

18 Q What county is that located?

19 A Far Rockaway.

20 Q What county is that?

21 A Queens.

22 Q What is at that location 2288 Mott Avenue?

23 A It's residential houses.

24 Q Can you describe what happened while you were in the
25 vicinity of 2288 Mott Avenue at that time?

1 A Yes. I was -- I observed the defendant Kareem
2 Buddington enter a livery cab with a box.

3 Q Do you see the individual that you saw enter the livery
4 cab that night in the courtroom today?

5 A Yes.

6 Q Could you point at him and indicate an article of
7 clothing?

8 A Yes, the gentleman right there with the stripes.

9 THE COURT: Indicating the defendant for the
10 record.

11 Q When you first saw Mr. Buddington that night where was
12 he?

13 A He was by Hollywood Court.

14 MR. MEGARO: I can't hear.

15 THE WITNESS: Hollywood Court.

16 MR. MEGARO: Hollywood Court?

17 THE WITNESS: Yes.

18 Q What was he doing when you first saw him?

19 A He was entering the livery cab with a shoe box.

20 Q What part of the livery cab did he get into?

21 A The rear passenger.

22 Q What happened after you saw him get into the rear of the
23 livery cab?

24 A They drove off.

25 Q What happened after that?

1 A They came towards us, and they made a left without
2 signalling, then they made another left without signalling, and
3 that's when we pulled them over.

4 Q When they passed you, what did you and Sergeant Cane do?

5 A We proceeded to follow them.

6 Q Can you describe your route of travel, where did you go?

7 A Straight.

8 Q Okay. Straight on Mott Avenue?

9 A Straight on Mott Avenue.

10 Q Then what happened?

11 A Then as the livery cab made a left, we followed and made
12 a left, too.

13 Q Did the driver use a signal when he made the left?

14 A No, he did not, that's the reason we pulled him over.

15 Q What street did you observe the driver of the livery cab
16 make the left onto when you saw him not use the turn signal?

17 A Mott and Dickens.

18 Q Mott Avenue and Dickens?

19 A Yes.

20 Q What happened at that time?

21 A Me and the sergeant got out of the car, we proceeded to
22 the livery cab.

23 Q You conducted a traffic stop?

24 A Yes.

25 Q When you went to the livery cab, what part of the livery

1 cab did you go to?

2 A I went on the passenger's side.

3 Q Could you see where Sergeant Cane was?

4 A Yes, he was on the driver's side.

5 Q What happened when you got to the livery cab?

6 A It was dark out so I had my flashlight on. I approached
7 the passenger's side, I looked in the back. I looked at the
8 driver first then I looked in the back with my flashlight.

9 Q What could you see in the back?

10 A I saw a box sitting next to the defendant.

11 Q Can you describe what else you saw?

12 A It was like a box in like a plastic bag, and it had bags
13 of marijuana sticking out of it.

14 Q You could see the marijuana coming out of the box?

15 A Yes, it was in plain view.

16 Q After you made the observations, what did you do?

17 A I looked at my sergeant just gave him the heads up that
18 we had something.

19 Q What did you do after that?

20 A I went back to the rear, opened the door and the smell
21 of marijuana hit me in the face.

22 Q After that happened, what did you do?

23 A I proceeded to take the defendant out, I did a frisk on
24 him, made sure he had no weapons or anything.

25 Q Where did you do that frisk?

1 A Outside the livery cab.

2 Q What part of it?

3 A In the back.

4 Q Where was Sergeant Cane at that time?

5 A Sergeant Cane was still at the driver's side. He took
6 the driver out and placed him in the back where I was standing
7 with the defendant.

8 Q What happened after that?

9 A Sergeant Cane proceeded to look through the vehicle and
10 that's where you saw the marijuana.

11 Q What did you do?

12 A He took it out.

13 Q He took what out?

14 A The marijuana the box and the bag.

15 Q What did he do with it?

16 A He placed it on the back, the back of the car and that's
17 it.

18 Q Did there come a time where you searched Mr. Buddington?

19 A Yes.

20 Q What, if anything, did you recover from him?

21 A We recovered money, a lot of money.

22 Q How much money did you recover?

23 A It was 1329, \$1,329.

24 MR. WHITNEY: Nothing further at this time, your
25 Honor.

1 THE COURT: Mr. Megaro?

2 CROSS EXAMINATION

3 BY MR. MEGARO:

4 Q At 12:35 A.M. on November 12, 2010 you testified you
5 were at 2288 Mott Avenue?

6 A The vicinity of 2288 Mott Avenue.

7 Q Well, where were you exactly?

8 A Probably a couple of blocks -- like a block away from
9 2288.

10 Q Say that again?

11 A A block away from 2288.

12 Q Okay. So what's 2288 Mott Avenue?

13 A It's kind of like a housing development.

14 Q Were you on Mott Avenue or on a different street?

15 A On Mott Avenue.

16 Q Facing which direction?

17 A This would be southbound.

18 Q Facing south?

19 A Yes, we were facing 2288.

20 Q Were you on the southbound side of the street?

21 A Yes, they were facing like the side of 2288. Do you
22 understand what I'm saying?

23 Q No.

24 A Okay. Our car is parked here, then 2288 is right ahead
25 of us.

1 Q Okay. About a block ahead of you?

2 A Yes, I would say a block, two blocks maybe.

3 Q Maybe two blocks?

4 A Yeah.

5 Q Which address were you in front of, do you remember
6 that?

7 A No, I don't recall.

8 Q What house were you in front of?

9 A I don't recall the house number we were in front of.

10 Q Was it a house or apartment building?

11 A It was a house.

12 Q Private house?

13 A Private house, yes.

14 Q Okay. So you said that you saw Mr. Buddington enter a
15 livery cab on Hollywood Court?

16 A Yes.

17 Q Where is Hollywood Court in relation to 2288 Mott
18 Avenue?

19 A Hollywood is parallel to Mott.

20 Q So it runs in the same north south direction as Mott
21 Avenue?

22 A No, Mott Avenue goes this way north south so it probably
23 goes east west.

24 Q So Hollywood Court runs perpendicular to Mott Avenue?

25 A Yes.

1 Q You said you saw him by Hollywood Court. Was he on
2 Hollywood Court or on a different street?

3 A He was on Hollywood Court.

4 Q Where on Hollywood Court?

5 A In the front of.

6 Q Is Hollywood Court a dead end street?

7 A Yes.

8 Q Where was he in relation to the dead end on that street?

9 A He was getting into the livery cab on the street.

10 Q Where on the street, closer to the dead end or closer to
11 the intersection with Mott Avenue?

12 A Closer to the intersection, like it was Hollywood Court
13 and Mott Avenue, they are close together.

14 Q So is it fair to say that he was around the corner from
15 2288 Mott Avenue?

16 A Yes, you could you could say that, okay.

17 Q Now, you said you saw him enter the livery cab with a
18 box, right?

19 A Correct.

20 Q Could you describe the livery cab that he got into?

21 A It was a Crown Victoria livery cab, I believe it was
22 black.

23 Q Ford black?

24 A Yes.

25 Q Who was driving that livery cab?

1 MR. WHITNEY: Objection.

2 THE COURT: Overruled. Do you know who was driving
3 the livery cab?

4 A No.

5 Q Is there anything that you would have in your file to
6 refresh your recollection as to the name of that driver?

7 A No.

8 Q You said that the livery cab drove off after Mr.
9 Buddington entered the cab with the shoe box in his hands, right?

10 A Yes, correct.

11 Q Which direction did it drive?

12 A It was driving towards us so it would be westbound.

13 Q Not towards the dead end?

14 A Towards Mott Avenue.

15 Q When it reached the intersection of Mott Avenue and
16 Hollywood Court, which direction did that cab travel in?

17 A Well, it was traveling towards us, and it made a left
18 down Mott Avenue.

19 Q So the car was coming towards you?

20 A Yes.

21 Q Okay. Did that cab pass you at one point?

22 A Yes.

23 Q You and Sergeant Cane did a U-turn and drove around to
24 follow that cab?

25 A No, we were facing down Mott Avenue, and they were

1 coming towards us like this. This is our car. This is their car.
2 They made a left like that and went down Mott Avenue.

3 Q You said you were two blocks back from 2288, right?

4 A Yes.

5 Q 2288 is on the corner of Hollywood and Mott, right?

6 A It's around the corner, like it's hard to explain.

7 Q Give me one second.

8 (Defendant and counsel confer.)

9 Q Go ahead. Explain.

10 A Hollywood Court -- Mott Avenue goes this way and
11 Hollywood Court --

12 Q When you say goes this way, north south?

13 A North south.

14 Q Okay?

15 A And 2289 is about a block or two over straight ahead.

16 Q So 2288 is or is not on the corner of Hollywood and
17 Mott?

18 A It is on Mott Avenue.

19 Q What's on the corner of Mott and Hollywood?

20 A Nothing.

21 Q Vacant lot?

22 A It's a residential house.

23 Q So when this cab turns and goes down Mott Avenue it's on
24 the same side of the street and same direction of the flow of
25 traffic as you or in the opposite flow of traffic?

1 A No. The livery cab is coming towards us, and we are
2 parked here so it's going -- it's hard to explain.

3 THE COURT: We have to explain it for the record.
4 You are holding your hands in a perpendicular way. You are
5 facing towards the back of the courtroom.

6 You are saying the cab was coming from the side
7 wall of the courtroom towards your car which was facing
8 towards the back of the courtroom; is that correct?

9 THE WITNESS: Yes.

10 Q When you were stopped at 12:35 A.M., your car was parked
11 two blocks down from 2288 Mott Avenue on the corner of Mott and
12 what?

13 A I don't remember the cross street.

14 Q But it was not Hollywood?

15 A No, it was not Hollywood. Hollywood was down the
16 street.

17 Q Possibly two blocks down from Hollywood?

18 A Possibly.

19 Q Possibly more?

20 A Probably -- no, about two blocks. It was close. It was
21 in viewing distance, I could see him.

22 Q Okay. Now, then that car, the cab travels in the same
23 direction as the flow of traffic as the side of the street of Mott
24 Avenue that you are on --

25 MR. MEGARO: That was convoluted. Withdrawn.

1 Q When that cab turns onto Mott Avenue, it is going in the
2 same distribution as the flow of traffic on Mott?

3 A Yes. As soon as it makes a left, it goes in the same
4 direction.

5 Q How long were you sitting at that location before you
6 saw the cab?

7 MR. WHITNEY: Objection.

8 THE COURT: It's not relevant, but how long were
9 you sitting there?

10 A Could have been ten minutes.

11 Q Were you watching a particular house?

12 MR. WHITNEY: Objection.

13 THE COURT: Sustained.

14 A No.

15 Q When that cab drove down Mott Avenue, how far did it
16 drive before that car was pulled over?

17 A About two blocks.

18 Q Two blocks, okay. Where was that car pulled over?

19 A It was on the corner of Mott and Dickens.

20 Q When the car was pulled over, it was still on Mott
21 Avenue?

22 A It was on the corner of Mott and Dickens more towards
23 Dickens.

24 Q But on Mott Avenue?

25 A Yes, it was traveling on am Mott Avenue, then made a

1 left on Dickens, and that's where we pulled it over.

2 Q So the cab was pulled over on Dickens Avenue?

3 A Yes.

4 Q Your testimony was that that driver did not make a left
5 turn?

6 A Signal.

7 Q Okay?

8 A Yes.

9 Q Did you write him a ticket?

10 A No.

11 Q Did you even have a ticket book to write a traffic
12 summons?

13 A No.

14 Q Did Sergeant Cane?

15 A No.

16 Q Did Sergeant Cane write him a ticket?

17 A No.

18 Q You said you and the sergeant got out of your car and
19 went to the cab after it was pulled over, correct?

20 A Correct.

21 Q And you were on which side of the cab when you
22 approached?

23 A I was on the passenger's side.

24 Q At this time you said you were in plainclothes, right?

25 A Correct.

- 1 Q And your sergeant was also in plainclothes?
- 2 A Correct.
- 3 Q And the car you were driving what type of car?
- 4 A It was unmarked, Crown Vic, I believe.
- 5 Q A Crown Victoria, so it looked --
- 6 A Yes.
- 7 Q So it looked like a cab also?
- 8 A Yes.
- 9 Q No police markings on it whatsoever, right?
- 10 A Negative.
- 11 Q You said that you were working an anti-crime detail that
- 12 night, correct?
- 13 A Yes.
- 14 Q What are the functions of anti-crime?
- 15 A Patrol Far Rockaway for guns and drugs, try to get the
- 16 volume of violent crimes off the streets.
- 17 Q Mainly violent crimes?
- 18 A Yes.
- 19 Q Is there a specific list of conditions or tasks that
- 20 officers on anti-crime detail are supposed to do or follow?
- 21 A No.
- 22 MR. WHITNEY: Objection.
- 23 THE COURT: Sustained.
- 24 A No.
- 25 THE COURT: When there is an objection, you have to

1 wait before you answer the question.

2 Q Does the function of an anti-crime officer include
3 writing traffic summonses?

4 MR. WHITNEY: Objection.

5 THE COURT: Sustained.

6 A No.

7 Q You said you saw a shoe box on the back seat, correct?

8 A Yes.

9 Q Did you take any photographs of that shoe box?

10 A No.

11 Q Did any other police officers take any photographs of
12 that shoe box?

13 A No.

14 Q That shoe box was vouchered?

15 A Can I look at my paperwork?

16 Q Just let me know what you are referring to?

17 THE COURT: There are rules about this stuff, the
18 attorney is telling you, you can look at it and tell him the
19 answer.

20 A I don't believe the shoe box was vouchered, no, I am
21 looking at the voucher. Actually it was. Disregard. It was.

22 Q Are you referring to property clerk R778600?

23 A Yes.

24 Q So that shoe box was vouchered, right?

25 A Yes.

- 1 Q Did that shoe box have a lid?
- 2 A No, it didn't. I don't recall. I don't really recall
3 if it did or not. I just remember it was one Reeboks shoe box.
- 4 Q Was that shoe box inside of a bag?
- 5 A Yes, inside of a plastic bag.
- 6 Q When you say inside of plastic bag, was it like a bag
7 when you buy groceries?
- 8 A Yes, like a King Kullen bag.
- 9 Q What color was the bag?
- 10 A I believe it was white.
- 11 Q Not see-through, in other words?
- 12 A Negative, no.
- 13 Q You testified before that when you went up to the
14 passenger's side, you looked in the back seat of that Crown
15 Victoria, right?
- 16 A Yes, with my flashlight.
- 17 Q You saw a man sitting in the back, Mr. Buddington,
18 right?
- 19 A Yes.
- 20 Q How far away were you from him at that point?
- 21 A He was sitting on the back passenger's side so a couple
22 of inches, I guess, you could say.
- 23 Q It's fair to say the front seat?
- 24 A Yes, to the back seat.
- 25 Q It's fair to say the front seat was in between you and

1 him?

2 A Yes.

3 Q Was there a barrier or partition separating the front of
4 the cab from the rear of the cab?

5 A No.

6 Q Was the driver of that cab removed from the vehicle
7 also?

8 A Yes, he was.

9 Q By whom?

10 A Sergeant Cane.

11 Q At what point?

12 A After I pulled the defendant out and placed him in the
13 back, Sergeant Cane took the driver out and placed him on the back
14 with me.

15 Q Placed him on the back also?

16 A Yes.

17 Q Was he handcuffed?

18 A No.

19 Q Was the defendant handcuffed?

20 A After we recovered the marijuana, yes.

21 Q So you pulled him out first and then went and recovered
22 the marijuana; is that it?

23 A Yes.

24 Q You said you searched him for weapons or any other
25 contraband?

- 1 A Correct.
- 2 Q The only thing you found was \$1,329 in cash?
- 3 A Correct.
- 4 Q No marijuana in his pockets?
- 5 A Negative.
- 6 Q No drug paraphernalia in his pockets?
- 7 A No.
- 8 Q When you pulled over that cab, did you call back to
9 central dispatch on the police radio to report a car stop?
- 10 A No.
- 11 Q Did you run the cab driver's license?
- 12 A No.
- 13 Q Did your sergeant run the cab driver's license?
- 14 A No.
- 15 Q There was no check of the cab driver or his documents
16 whatsoever?
- 17 A No.
- 18 Q Did you even ask him to produce a license to see if he
19 had one?
- 20 A Yes, Sergeant Cane asked him to produce his license.
- 21 Q I couldn't hear?
- 22 A And his stops of the livery cab where the livery cab
23 made his stops.
- 24 Q You mean his trip sheet?
- 25 A Yes.

1 Q And that's the log of stops that he had made and picked
2 up that night?

3 A Correct.

4 Q Did anyone take a copy of that trip sheet?

5 A No, negative.

6 Q All right.

7 MR. MEGARO: No further questions at this time.

8 THE COURT: Anything else?

9 MR. WHITNEY: Nothing further.

10 THE COURT: Thank you. You can step down.

11 (Witness excused.)

12 THE COURT: Do you have any other witnesses?

13 MR. WHITNEY: The People rest, Judge.

14 THE COURT: Let's pick a date to continue this for
15 the defendant's case. February 14th?

16 MR. MEGARO: That's fine.

17 MR. WHITNEY: I ask that an 18(b) attorney be
18 present that day.

19 THE COURT: Why is that?

20 MR. WHITNEY: If Mr. Megaro is going to call the
21 cab driver, he is subjecting himself to either admitting that
22 he committed a traffic infraction on the stand or possible
23 perjury on the stand. He needs to have an attorney protect
24 his rights.

25 THE COURT: What do you mean?

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MR. WHITNEY: There is only two things that
Mr. Megaro could be calling him for --

THE COURT: Wait a minute. I'm a little slow,
okay? There is the traffic infraction and now you are
jumping to perjury?

MR. WHITNEY: Yes, if he gets on the stand and says
I did not drive --

THE COURT: Turn without signalling?

MR. WHITNEY: Yes, that would be perjury.

THE COURT: I'm not going to worry about that yet.
If I need an 18(b) attorney, I will find one. February 14th
for defense case.

(Matter adjourned to February 14, 2011.)

* * * * *

The foregoing is certified to be a true and accurate
transcript of the original stenographic minutes taken of this
proceeding.



Nancy Samms, SCR

I N D E X

1			
2	P.O. G L E N N	Z I M I N S K I	
3	DIRECT EXAMINATION		
4	BY MR. WHITNEY		
5	CROSS EXAMINATION		
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EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS : CRIMINAL TERM, PART K-6

-----X Indictment # N10642-2010
THE PEOPLE OF THE STATE OF NEW YORK,

-against-

KAREEM BUDDINGTON,

Defendant.

**AFFIRMATION OF
SERVICE FOR
SUBPOENA DUCES
TECUM**

-----X
PATRICK MICHAEL MEGARO, an attorney duly admitted to practice law
before the Courts of the State of New York, hereby affirms as follows under penalty of
perjury:

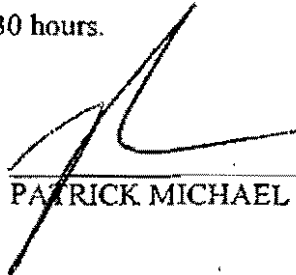
1. I am over the age of 18 years and am not a party to the within action.
2. On February 12, 2011, I served the within original **Subpoena Duces Tecum**
with attachments upon Magnificent 7s Enterprises, Inc., by hand-delivering the same at
both its actual place of business/office at 10-85 Beach 21st Street, Far Rockaway, New
York 11691 and upon Mike Larocca, President, at his home, which is also listed as the
address of the corporation, at 461 Lakeville Lane, East Meadow, New York 11554 as
follows:

- a. At approximately 1530 hours, I hand-delivered an original to a male identified
as T. Jones, a person of suitable age and discretion, described as male, African-
American, approximately 40-45 years of age, short hair, light skin, brown eyes,
approximately 160-175 lbs, who identified himself as an employee of Magnificent
7s and stated he was authorized to accept service of the same.

- b. At approximately 1700 hours, I hand-delivered an original to a male identified
as Brian Larocca a person of suitable age and discretion, described as male,
caucasian, claimed he was 26 years of age, dark hair, glasses, light facial
hair/goatee, approximately 200 lbs, who answered the door at 461 Lakeville Lane,
East Meadow, New York 11554 and stated he was authorized to accept service of
the same.

3. Thereafter, I properly enclosed and sealed in an envelope bearing the legend "personal and confidential" and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the defendant, first class, postage prepaid, and properly addressed to the Magnificent 7s Enterprises, Inc., 10-85 Beach 21st Street, Far Rockaway, New York 11691, and 461 Lakeville Lane, East Meadow, New York 11554 those addresses being Magnificent 7s and Mike Larocca's actual place of business and actual place of abode, was deposited into a depository, maintained under the exclusive control of the United States Postal Service, on February 12, 2011 at approximately 1930 hours.

Dated: Uniondale, New York
February 12, 2011



PATRICK MICHAEL MEGARO

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS : CRIMINAL TERM, PART K-6

-----X
THE PEOPLE OF THE STATE OF NEW YORK,

-against-

**SUBPOENA DUCES
TECUM**


KAREEM BUDDINGTON,

Indictment # N10642-2010

Defendant.

-----X
TO: Magnificent 7s Enterprises, Inc.
Att: Mike Larocca
461 Lakeview Lane
East Meadow, New York 11554

Magnificent 7s Enterprises, Inc.
1085 Beach 21st Street
Far Rockaway, New York 11691


YOU ARE HEREBY COMMANDED to appear and attend before the **Honorable Steven W. Paynter**, a Justice of the **Supreme Court, County of Queens**, at **Part K-6** thereof, to be held at the courthouse at **125-01 Queens Boulevard, Kew Gardens, New York 11415** on the **14th day of February, 2011**, at **9:30 o'clock in the forenoon**, or at any recessed or adjourned date thereof, to testify and give evidence in the above-entitled action now pending in that court and to bring with you and produce at the time and place aforesaid the following:

1. The name, address, telephone number, and all contact information for the driver of a 2005 Ford Crown Victoria, License Plate # T52530C, VIN # 2FAHP71W35X102269 on November 12, 2010 between the hours of 12:35 and 12:45 a.m. in the vicinity of the intersection at Dickens Street and Mott Avenue in Far Rockaway, Queens County, New York who was operating the vehicle at the time of the incident and arrest of Kareem Buddington as alleged in the attached Criminal Court Complaint (Docket # 2010QN066306) which is incorporated by reference;


2. All records concerning the operation of a 2005 Ford Crown Victoria, License Plate # T52530C, VIN # 2FAHP71W35X102269 on November 12, 2010 between the hours of 12:35 and 12:45 a.m. in the vicinity of the intersection at Dickens Street and Mott Avenue in Far Rockaway, Queens County, New York, including the name, telephone number, and address of the driver of the aforementioned 2005 Ford Crown Victoria on the November 12, 2008 between the hours of 12:35 and 12:45 a.m., and including the "trip sheet" or travel log maintained by the same driver or the same vehicle, incident reports, unusual activity reports, and vehicle usage reports;
3. All records concerning the lease, loan, rental agreement, or other agreement for the use and operation of a 2005 Ford Crown Victoria, License Plate # T52530C, VIN # 2FAHP71W35X102269 on November 12, 2010, identifying the individual or individuals or entity or entities operating the aforementioned 2005 Ford Crown Victoria on the November 12, 2008 between the hours of 12:35 and 12:45 a.m.,
4. Certified records for all of the above items with Business Record Certification pursuant to New York Civil Practice Law and Rules § 4518.

now in your custody or control and all other writings which you have in your custody concerning the above premises;

NOTICE: IF YOU FAIL TO ATTEND AND COMPLY WITH THIS SUBPOENA YOU CAN BE DEEMED GUILTY OF A CONTEMPT OF COURT AND BE LIABLE FOR ALL DAMAGES SUSTAINED TO THE PARTY AGGRIEVED HEREBY AND TO FORFEIT \$50.00 IN ADDITION THERETO.

Dated: Uniondale, New York
February 10, 2011

Yours, etc.



PATRICK MICHAEL MEGARO, ESQ.
Attorney for Defendant
626 RXR Plaza, 6th Floor, West Tower
Uniondale, New York 11556
(o) 516-317-6660
(f) 866-617-7442
KC2QBN@yahoo.com

CRIMINAL COURT OF THE CITY OF NEW YORK
PART APAR, COUNTY OF QUEENS

THE PEOPLE OF THE STATE OF NEW YORK

STATE OF NEW YORK
COUNTY OF QUEENS

V.

KAREEM A BUDDINGTON
DEFENDANT

Q# 10642/10
A 12/14/10

**QNTC
ELIGIBLE**

Sgt Patrick O'Neil, 931572, SA# 1702

POLICE OFFICER GLENN ZIMINSKI OF 101ST PRECINCT, TAX REG#: 940891, *SA# 31231*
BEING DULY SWORN, DEPOSES AND SAYS THAT ON OR ABOUT NOVEMBER 12 2010
BETWEEN 12:35AM AND 12:43AM, AT THE NE INTERSECTION OF DICKENS AND
MOTT, COUNTY OF QUEENS, STATE OF NEW YORK

THE DEFENDANT COMMITTED THE OFFENSE OF:
PL 221.15 CRIMINAL POSSESSION OF MARIHUANA IN THE FOURTH DEGREE

IN THAT THE DEFENDANT DID: KNOWINGLY AND UNLAWFULLY POSSESS ONE OR
MORE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES CONTAINING
MARIHUANA AND THE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES ARE
OF AN AGGREGATE WEIGHT OF MORE THAN TWO OUNCES

THE SOURCE OF DEPONENT'S INFORMATION AND THE GROUNDS FOR DEPONENT'S
BELIEF ARE AS FOLLOWS:

DEPONENT STATES THAT AT THE ABOVE-MENTIONED DATE, TIME, AND PLACE OF
OCCURRENCE, HE OBSERVED THE DEFENDANT, KAREEM A BUDDINGTON, ENTER INSIDE
OF A 2005 FORD CROWN VICTORIA VEHICLE WHILE HOLDING A PLASTIC SHOPPING
BAG AND SIT IN THE BACK PASSENGER SEAT OF SAID VEHICLE.

DEPONENT FURTHER STATES THAT HE LATER OBSERVED AND RECOVERED SAID
PLASTIC SHOPPING BAG WHICH WAS SEATED NEXT TO THE DEFENDANT ON THE
BACK SEAT OF SAID VEHICLE. DEPONENT FURTHER STATES THAT HE RECOVERED
A LARGE ZIPLOCK BAG WITH A QUANTITY OF LOOSE MARIJUANA AND A SHOEBOX
HOLDING FOUR LARGE PLASTIC BAGS CONTAINING A QUANTITY OF LOOSE MARIJUANA
FROM INSIDE OF SAID SHOPPING BAG.

DEPONENT FURTHER STATES THAT HE WEIGHED THE ABOVE-MENTIONED MARIJUANA
AND THAT SAID MARIJUANA WEIGHED MORE THAN TWO OUNCES.

DEPONENT FURTHER STATES THAT HIS CONCLUSION THAT THE SUBSTANCE RECOVERED
IS MARIJUANA IS BASED UPON HIS EXPERIENCE AS A POLICE OFFICER AND IN HIS
TRAINING IN THE IDENTIFICATION AND PACKAGING OF CONTROLLED SUBSTANCES
AND MARIJUANA.

BIDDINGTON, KALEEM A Q10667872

FALSE STATEMENTS MADE IN THIS DOCUMENT ARE
PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT
TO SECTION 210.45 OF THE PENAL LAW

11/12/10 

DATE SIGNATURE

SWORN TO BEFORE ME ON THE
DAY OF

DATE SIGNATURE

SCRN: RESP FINEST MESSAGE SWITCHING SYSTEM DATE: 11/12/10
TERM: 101D NYSFIN RESPONSE SCREEN TIME: 02:23:26
MESSAGES: 4 TOTAL: 5 SENT 11/12/10 - 02:23.23 SBR# 003677 FROM: NYSP

101DCNV2669114
NYW RALL NYPA 0223
NPLT523530C
HEDR/S65669 87265 301137-74
LIC/T523530C. LIY/2011. LIT/TX.
VIN/2FAHP71W35X102269. VYR/2005. VMA/FORD. VMO/CVC. VST/4D. VCO/WHI
2005 FORD CROWN VICTORIA, WHITE FOUR-DOOR SEDAN

** REGISTERED TO **
SERVICE; PRO: ENTERPRISES; INC
69-20 48TH AVE WOODSIDE, NY 11377

LICENSE PLATE: T523530C DMV REGISTRATION CLASS: OMT (054)
STYLE: EMPIRE LOGO: EMPIRE LEGEND: NYC T&LC
PLATE ISSUED: 2009-07-31

INSURANCE: ALLSTATE INS CO (011)
REGISTRATION EXPIRATION DATE: 2011-06-30

01 OF 02

CMD: _____ MSG:

Help

*** REGISTRATION RECORD EXPANSION *** TODAY'S DATE IS 02/02/11
PLATE: T523530C TYPE: TAXI REGISTRANT INFORMATION:
VIN#: 2FAHP71W35X102269 SERVICE;PRO
05 FORD WHITE 4DSD WEIGHT:000C05 ENTERPRISES,INC
FUEL: GAS CYL: 03 69-20 48TH AVE COUNTY: QUEE
EXPIRES: 06/30/11 VALID: 07/07/10 WOODSIDE NY ZIP: 11377
INS: MI#: S65669 87265 301137-74

BALANCE: 84.00

MENU

ABSTRACT

Help

VEHICLE IDENTIFICATION NUMBER RECORD EXPANSION TODAY'S DATE IS 02/02/11

VIN#: 2FAHP71W35X102269 CURRENT OWNER
05 FORD WHITE 4DSD WGT: 004013 PC;UNLIMITED;INC;DBA
ODOMETER: ACTUAL MILEAGE 018266
FUEL: GAS CYL: 08 POLICE;CARS;INLIMITD
69-20 48TH AVE
WOODSIDE NY 11377

OWNER OF VEHICLE AND REGISTRANT ARE DIFFERENT. PLATE OF REGISTRANT IS T523530C
BATCH DATE: 12/08/08

ORIG DOC ISSUED: 02/17/09 LAST DOC ISSUED: 02/17/09

***** PRIOR OWNERS *****

PC;UNLIMITED;INC;DBA
POLICE;CARS;INLIMITD
69-20 48TH AVE WOODSIDE NY 11377
BATCH DATE: 12/08/08
ORIG DOC ISSUED: 02/17/09
ODOMETER: ACTUAL MILEAGE 018266

BALANCE: 91.00

MENU

ABSTRACT

DC/AM

INDICTMENT

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

THE PEOPLE OF THE STATE OF NEW YORK

AGAINST

FILED:
INDICTMENT NO. QN10642/2010

XB. KAREEM BUDDINGTON
DEFENDANT
2010QN066306
NYSID# 01430532K

221.25 CRIMINAL POSSESSION OF MARIHUANA IN THE SECOND DEGREE
(1)

A TRUE BILL

FOREMAN

DISTRICT ATTORNEY

FIRST COUNT

THE GRAND JURY OF THE COUNTY OF QUEENS BY THIS
INDICTMENT, ACCUSE THE DEFENDANT OF THE CRIME OF CRIMINAL
POSSESSION OF MARIHUANA IN THE SECOND DEGREE COMMITTED AS
FOLLOWS:

THE DEFENDANT, ON OR ABOUT NOVEMBER 12, 2010, IN THE
COUNTY OF QUEENS, KNOWINGLY AND UNLAWFULLY POSSESSED ONE OR MORE
PREPARATIONS, COMPCUNDS, MIXTURES OR SUBSTANCES CONTAINING
MARIHUANA AND THE PREPARATIONS, COMPOUNDS, MIXTURES OR SUBSTANCES
WERE OF AN AGGREGATE WEIGHT OF MORE THAN SIXTEEN OUNCES

RICHARD A. BROWN
DISTRICT ATTORNEY