


Approved:

  
Marc P. Berger  
Assistant United States Attorney

Before: HONORABLE KEVIN NATHANIEL FOX  
United States Magistrate Judge  
Southern District of New York

10 MAG 334

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UNITED STATES OF AMERICA

- v -

MILTON BALKANY,  
a/k/a "Yehoshua Balkany,"

Defendant.  
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COMPLAINT

Violations of  
18 U.S.C. §§ 1343,  
875(d), 873, 1001  
and 2.

COUNTY OF OFFENSE:  
NEW YORK

SOUTHERN DISTRICT OF NEW YORK, ss.:

ROBERT MANCHAK, being duly sworn, deposes and says that he is a Criminal Investigator employed by the United States Attorney's Office, Southern District of New York ("USAO"), and charges as follows:

COUNT ONE  
(Wire Fraud)

1. From at least on or about December 16, 2009 to at least on or about February 18, 2010, in the Southern District of New York and elsewhere, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, unlawfully, willfully and knowingly would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, to wit, telephone calls in or about January 2010, from Israel to New York, for the purpose of executing such scheme and artifice, to wit, BALKANY attempted to induce a hedge fund and its constituent individuals to pay \$4 million by claiming that the USAO and the United States Federal Bureau of Investigation were pressuring an incarcerated individual to provide purportedly damaging information about a

manager of a hedge fund in exchange for reducing that individual's prison sentence.

(Title 18, United States Code, Sections 1343 and 2.)

COUNT TWO  
(Extortion)

2. From at least on or about December 16, 2009 to at least on or about February 18, 2010, in the Southern District of New York and elsewhere, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, unlawfully, willfully and knowingly, with intent to extort from a person, firm, association, and corporation, money and other things of value, did transmit in interstate and foreign commerce communications containing threats to injure the property and reputation of the addressee and another, and threats to accuse the addressee and another of a crime, to wit, BALKANY, on multiple occasions, made telephone calls to representatives of a hedge fund, in which he threatened to advise an incarcerated individual, under BALKANY's control, to disclose to law enforcement authorities alleged illegal conduct that occurred at the hedge fund involving the manager of a hedge fund, unless BALKANY received \$4 million dollars from the hedge fund.

(Title 18, United States Code, Sections 875(d) and 2).

COUNT THREE  
(Blackmail)

3. From at least on or about December 16, 2009, to at least on or about February 18, 2010, in the Southern District of New York and elsewhere, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, unlawfully, knowingly, and willfully, under a threat of informing, and as a consideration for not informing, against a violation of a law of the United States, demanded and received money and other valuable things, to wit, BALKANY, on multiple occasions, communicated by telephone threats to cause to be disclosed to law enforcement authorities alleged illegal conduct that occurred at a hedge fund involving the manager of the hedge fund, and received money for not permitting an individual to inform law enforcement authorities of the alleged illegal conduct.

(Title 18, United States Code, Sections 873 and 2.)

COUNT FOUR  
(False Statements)

4. On or about January 21, 2010, in the Southern District of New York, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, in a matter within the jurisdiction of the executive branch of the Government of the United States, unlawfully, willfully, and knowingly, did falsify, conceal, and cover up by trick, scheme, and device material facts, and made materially false, fictitious, and fraudulent statements and representations, to wit, BALKANY participated in telephone conversations with a Criminal Investigator with the USAO, in which he made materially false and misleading statements, and concealed and covered up material facts, to wit, BALKANY falsely stated that he did not identify the name of the incarcerated individual to anyone else in connection with the alleged illegal conduct, and concealed that he had multiple conversations with representatives of the hedge fund about the alleged illegal conduct.

(Title 18, United States Code, Sections 1001 and 2.)

5. I am a Criminal Investigator with the USAO, where I have been so employed for over ten years. I am currently assigned to the Securities and Commodities Task Force, where I am responsible for investigating financial fraud including, among other things, securities and complex corporate fraud. I have participated in the investigation of this matter, and I am familiar with the information contained in this Complaint based on my own personal participation in the investigation, my review of documents, and conversations I have had with other law enforcement agents and other individuals. Because this Complaint is submitted for the limited purpose of establishing probable cause to arrest MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, I have not included herein the details of every aspect of the investigation. Where actions, conversations and statements of others are related herein, they are related in substance and in part, except where otherwise indicated.

### THE EXTORTIONATE SCHEME

6. MILTON BALKANY, a/k/a "Yehoshua Balkany," is the Dean of the Bais Yaakov school in Brooklyn, which is a religious day school located in Borough Park, New York. As set forth herein, there is probable cause to believe that BALKANY has been engaged in a scheme to defraud a Connecticut-based hedge fund ("the Hedge Fund") into paying millions of dollars to BALKANY's school and to another school on behalf of BALKANY. More specifically, BALKANY, who purports to be a spiritual advisor to certain incarcerated individuals, claimed to be in communication with, and in control of, an individual who is incarcerated at a federal prison in Otisville, New York (the "Otisville Inmate"). According to BALKANY, the Otisville Inmate advised BALKANY that the Hedge Fund obtained material, non-public information in approximately 2004 and 2005 (the "Inside Information") and used the purported Inside Information to profit from trading in at least six stocks. As part of the scheme, BALKANY advised lawyers from the Hedge Fund that representatives from the Federal Bureau of Investigation ("FBI") and the USAO (collectively the "Government Officials") were aware that the Otisville Inmate was in possession of the Inside Information, and that, as of mid-December 2009, the Government Officials have been anxious to speak with the Otisville Inmate.

7. In truth and in fact, the Government Officials never contacted the Otisville Inmate about the Inside Information. Instead, BALKANY contacted the USAO in or about mid-January 2010 by telephone, and had conversations during which he attempted to induce the USAO to make contact with the Otisville Inmate. During the same conversations with the USAO, BALKANY made false statements and concealed material information from the Government.

8. In furtherance of his scheme, BALKANY separately advised attorneys for the Hedge Fund that BALKANY was in frequent contact with the Otisville Inmate, and that the Otisville Inmate would follow BALKANY's instructions as to what he should and should not tell the Government Officials. For example, BALKANY advised lawyers for the Hedge Fund that BALKANY would instruct the Otisville Inmate not to tell the Government Officials about the Hedge Fund's purported illegal trading if the Hedge Fund made certain payments to BALKANY, specifically (a) \$2 million to Bais Yaakov, and (b) \$2 million to another school (BALKANY maintained that the second payment would constitute a loan, as it would be repaid to the Hedge Fund in future monthly installments with post-dated checks provided by BALKANY). Through numerous telephone calls and meetings, BALKANY has pressured the Hedge

Fund into paying by falsely claiming that the Government was soon going to approach the Otisville Inmate. BALKANY further stated that if the Hedge Fund did not pay, BALKANY would attempt to help the Otisville Inmate reduce his prison sentence by permitting him to speak to the Government Officials about the Hedge Fund.

INITIAL DISCUSSIONS AMONG BALKANY  
AND THE HEDGE FUND REPRESENTATIVES

9. On or about January 8, 2010, I spoke with an attorney ("A-1") who informed me that:

a. A-1 is the general counsel for the Hedge Fund and works in the Hedge Fund's office located in Connecticut.

b. On or about December 16, 2009, A-1 was advised by the administrative assistant to the manager of the Hedge Fund (the "Hedge Fund Manager") that a rabbi had called stating that he had important information about the Hedge Fund Manager. The rabbi requested a call back.

c. That same day, from the Hedge Fund's office in Connecticut, A-1 returned the call and had a conversation with MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, who was in New York. During that conversation, BALKANY advised A-1 that BALKANY was the Dean of Bais Yaakov, a Hebrew day school in Brooklyn. BALKANY stated that he had significant dealings with inmates in prison. BALKANY continued that one inmate with whom he is in contact had specific information about the Hedge Fund that would be damaging to the Hedge Fund Manager's reputation, and that because BALKANY and the Hedge Fund Manager were "co-religionists," BALKANY did not want to see him get hurt.

d. Following that conversation A-1 contacted an outside lawyer ("A-2") who represents the Hedge Fund, and A-1 informed A-2 about the conversation with BALKANY.

10. On or about December 21, 2009, I spoke with A-2 who informed me that:

a. On or about December 20, 2009, A-2, as the legal representative of the Hedge Fund, went to the home of MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant. During this meeting, BALKANY stated the following:

i. In his capacity as a rabbi, BALKANY has contact with federal prisoners and it has come to his attention that a

prisoner has information that would be adverse to the Hedge Fund if made public.

- ii. BALKANY has been in discussions with the Otisville Inmate, who is serving a sentence of approximately eight years, and has information about insider trading involving six securities traded by the Hedge Fund in 2004 and 2005. BALKANY named one particular stock, which he claimed was traded by the Hedge Fund using the Inside Information.
- iii. The Otisville Inmate was recently visited by the Government Officials, who put enormous pressure on the inmate to provide information about the Hedge Fund Manager in exchange for reducing his jail sentence.
- iv. The Otisville Inmate has turned to BALKANY for assistance regarding how to proceed, because it is a tenet of the Jewish religion that one cannot help oneself by harming another.
- v. The Otisville Inmate indicated he would follow BALKANY's advice on what he should or should not tell the Government Officials.
- vi. In exchange for his assistance advising the Otisville Inmate not to talk to the Government Officials, BALKANY wants the Hedge Fund to make certain charitable contributions that BALKANY would specify.

11. I have spoken with an FBI agent who advised me that there is ~~no~~ information in the FBI database indicating that the FBI has visited the Otisville Inmate at any time while he has been incarcerated.

12. I have spoken with the Bureau of Prisons official who is the Administrator for the section of Otisville prison that houses the Otisville Inmate. That official has advised me that:

a. All Government personnel who travel to Otisville to visit or speak to an inmate where the Otisville Inmate is detained sign an official visitor log book.

b. Her review of the official visitor log book from approximately July 2009 to the present indicates that no one from the FBI or the USAO visited the Otisville Inmate.

BALKANY'S RECORDED CONVERSATIONS WITH THE HEDGE FUND  
LEADING UP TO THE CONNECTICUT MEETING

13. On or about December 21, 2009, I provided A-2 with a recording device and obtained A-2's consent to record future calls between A-2 and MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant. To the extent that those calls are described herein, I have listened to the recordings that were made.

14. On or about December 22, 2009, A-2 had a recorded conversation with MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, during which A-2 asked BALKANY for the Otisville Inmate's name. BALKANY initially responded that while he "could never vouch for any information . . . in regard to, especially stocks," the fact that the inmate was "visited by these two [Government] people . . . tell me that they think that he has, you know, good . . . reason to want him to participate in a conversation" (referring to the Government Officials' desire to speak with the Otisville Inmate). BALKANY then told A-2 the last name of the Otisville Inmate.<sup>1</sup> BALKANY urged that "this is not a matter that can sit around indefinitely." In closing BALKANY said "look, I told you from where I'm coming, you know, that I'd like [the Hedge Fund Manager] to participate in a couple charities" and added that "on the 5% chance that, you know, it could explode . . . at least, you know, there was somebody out there willing to take the time to sit down and to pass it on, and give [the Hedge Fund Manager] an opportunity, you know, to divert, you know, this type of thing. . . . I don't get the feeling that it's some sort of joke, I don't."

15. On or about December 24, 2009, A-2 had another recorded conversation with MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant. A-2 asked BALKANY "how much time I have" before the Government Officials visit the Otisville Inmate, and BALKANY answered "it's either next week or the week after."

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<sup>1</sup> I have confirmed that the Otisville Inmate is currently serving a sentence at Federal Correctional Institute Otisville ("Otisville").

On this call BALKANY claimed that he personally "got a call from a certain government person who knows that I am in and out of the jail . . . speaking with these people and . . . he just said to me that he hoped that I was . . . encouraging [the Otisville Inmate's] cooperation as much as possible." BALKANY added that the Government is "very thirsty" and that the Hedge Fund Manager is "their target . . . [h]e's the one they want." When A-2 asked BALKANY which United States Attorney's Office was attempting to speak with the Otisville Inmate, BALKANY responded "Southern." I believe that BALKANY was referring to the USAO.

16. On or about December 30, 2009, A-2 had another recorded telephone conversation with MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant. During this conversation BALKANY reiterated that the Government Officials asked the Otisville Inmate specifically about the Hedge Fund Manager. A-2 asked BALKANY if it would be possible for A-2 to meet directly with the Otisville Inmate to find out exactly what the Government Officials wanted to know. BALKANY advised A-2 that BALKANY would get back to A-2 at a later time with an answer.<sup>2</sup>

17. On or about January 4, 2010, A-2 had another recorded conversation with MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, during which the following occurred:

a. A-2 asked BALKANY "[H]ow we can be comfortable that . . . [the Hedge Fund Manager's] name is not gonna become involved," to which BALKANY responded, "Well . . . I am the one that is . . . he's waiting to hear from me (referring to the Otisville Inmate), and that's what I'm hoping to do. That's my purpose of meeting with you and speaking with you and we're running out of time." BALKANY reiterated that the Government is "after him (referring to the Otisville Inmate), you know, to cooperate. . . . they're very thirsty to get his cooperation, obviously. They would love to target [the Hedge Fund Manager] and chop him down, you know."

b. BALKANY confirmed that the Otisville Inmate has not been speaking with anyone else about this and conveyed that the Otisville Inmate "will do nothing [un]til he hears from me. But . . . we're running out of time, you know."

c. BALKANY stated that he learned about the

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<sup>2</sup> In a subsequent conversation, on or about January 3, 2010, BALKANY told A-2 that a direct meeting with the Otisville Inmate would not be possible.



Inside Information directly from the Otisville Inmate during an in-person visit in the middle of December 2009.

d. BALKANY outlined the following three conditions he wanted in return for ensuring that the Inside Information was not disclosed to the Government.

- i. BALKANY requested a \$2 million payment to the Bais Yaakov day school, where he is the Dean.
- ii. BALKANY requested a separate \$2 million payment to another school, Torah Vodaath. BALKANY went on to describe this as a "loan" because upon receiving the money, the institution "would then give back post-dated checks, 25,000 dollars every month, signed by their board members . . . which would be paid back . . . at the rate of 25 or 30,000 dollars a month." BALKANY further added that "it's in [the Hedge Fund Manager's] interest that absolutely no one in the world should know" so "as a matter of fact, if [the Hedge Fund Manager] did it, it would simply be that [he is] a friend of mine, and I know the school needed some help financially, so I spoke to him about it and he was gracious to agree. [T]hey will not know any aspect of the story . . . ."
- iii. BALKANY requested that the Hedge Fund Manager have a twenty-minute meeting with BALKANY's son-in-law.

e. BALKANY explained on this call: "You know . . . you asked me what I'm hoping for, because I want to tell you, this is a heavy lift. When I see you face-to-face next time, 'cause I don't think it's for the telephone, I'm gonna tell you some information about how thirsty they (referring to the Government Officials) are to get this man (referring to the Hedge Fund Manager). And you're gonna realize that - and they feel that this is their, their way of getting him. They, they - that's how thirsty they are. They came to [the Otisville Inmate] three times before you and I met, to get him to this, 'we will let you out tomorrow morning from jail, we will this . . . just give us that' . . . And the main one was [the Hedge Fund

Manager]."

f. BALKANY continued by saying that "I want to extend a favor, I want to be of help, and I want to be able to assure him there's no one else that knows about this and the [Otisville Inmate] is putting himself totally in my decision. And [the Otisville Inmate] is, you know, 'you tell me what to say, what not to say, who to say about, who not to say about, and I will do exactly what you tell me (referring to what the Otisville Inmate told BALKANY)' . . . . And I can assure you that if we move ahead, and move ahead today or tomorrow or - 'cause I think Wednesday or Thursday they're meeting again (referring to the Government Officials and the Otisville Inmate), so it would have to be today or tomorrow - I can assure you, and I give you my handshake with my word, [the Hedge Fund Manager's] name is never coming up. Never. Even if it means that [the Otisville Inmate] has to forego the deal" (referring to the Otisville inmate not getting an opportunity to cooperate and reduce his sentence).

g. When BALKANY was asked whether he actually needed the money from the Hedge Fund that same day or the next, BALKANY replied "I would . . . need something, I mean it's the beginning of the year, so [the Hedge Fund Manager is] fresh (referring to his financial situation), so to speak, at this point." He continued: "I think it's a very minor price for the, for the package over here. I think if this ever got into what [the Government] want[s] to bring, it would cost [the Hedge Fund Manager] ten million [dollars] in lawyers."

h. BALKANY stated that he would take the money by check. BALKANY ended the conversation by saying that "If [the Hedge Fund Manager] wants to talk to me, I'm happy to come in . . . and talk to him. You know . . . believe me, I think it's a, it's a very inexpensive way out, you know what I mean? To say . . . I think it just buys some goodwill. - I'm not holding up anybody over here."

#### THE MEETING AT THE HEDGE FUND'S OFFICE IN CONNECTICUT

18. On or about January 5, 2010, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, drove from New York to Connecticut to meet A-1 and A-2 at the Hedge Fund's office. This meeting was video- and audio-recorded. I have reviewed the recording, during which the following occurred:

a. BALKANY stated that a few weeks ago the FBI approached the Otisville Inmate and advised him "[y]ou'll be back

with your family very shortly if you cooperate with us." He further stated that the FBI was coming back to the Otisville Inmate "tomorrow or Thursday, but I think it's tomorrow."

b. BALKANY reiterated that the Otisville Inmate had not spoken to anyone else and had told BALKANY, "tell me what I should do and that's what I'm gonna do." Then BALKANY assured A-1 and A-2 that "if he understands from me not to do anything, he's not doing anything. . . . And I'm positive of that."

c. BALKANY described how the purported Inside Information was leaked, how it was passed to the Hedge Fund Manager, and how the Otisville Inmate learned of the Inside Information. BALKANY also stated to A-1 and A-2 that he personally confirmed through "a friend in the FBI" that the FBI visited the Otisville Inmate and that the FBI was very interested in the Inside Information.

d. Referring to the effect that the Inside Information, if made public, would have on the Hedge Fund Manager, BALKANY stated that "the Government is like this. They throw a bucket of mud, that even if the guy gets out, when he gets done going through the whole publicity and the whole everything else, the guy's destroyed - I. . . you know, 50% destroyed." Later in the conversation BALKANY added, "If the FBI should be running after [the Hedge Fund Manager], they could destroy the man. You know what I mean? I don't care how many billions he has, these guys come and they - they're merciless."

e. BALKANY advised A-1 and A-2 that his initial telephone call to alert the Hedge Fund was "a little bit of a difficult, difficult call, because, I, I'm not a hold-up man. . . I'm not here to threaten some - God forbid, I, I-I'm on the other side of the fence." BALKANY recalled a prior incident whereby a large automobile manufacturer "had a problem with the Government" and needed help with a "bill up in committee." BALKANY stated that the auto manufacturer "gave my school a million dollars . . . . There I didn't even ask for it."

f. BALKANY discussed the money that he wanted from the Hedge Fund, stating that "my game was a simple one, not to put any pressure, just - I'm coming on behalf of two very . . . worthy causes which anyone is welcome to come visit, and - they need money badly." Of the four million dollars that BALKANY demanded, he stated "I don't consider it a lot of money" because in other situations "when something became a public issue . . . you can be ruined" and if the Hedge Fund Manager "had to go into this thing, you're talking 20 million, 30 million

[dollars]."

g. BALKANY repeated that he "would like to see some immediate response because of the timing here." He told A-1 and A-2, "I'm giving you my word . . . that he (referring to the Hedge Fund Manager) goes ahead . . . you have my . . . loyalty, my honesty for whatever he needs . . . because . . . you asked the question, 'what happens if three years from now, something else. . . ' I will be there. You're gonna need some-somebody in Washington, beyond the most capable lawyer. In other words, I'm not the lawyer route. The lawyers call me. . . . all of them call me."

h. BALKANY agreed to immediately instruct the Otisville Inmate not to discuss the Hedge Fund Manager with the Government, and in return, A-1 and A-2 agreed to quickly provide a substantial amount of money to Bais Yaakov, the day school where BALKANY is the Dean. However, prior to any payment, A-1 and A-2 requested that after the Government Officials meet with the Otisville Inmate, BALKANY report back to A-1 and A-2 to advise them what the Otisville Inmate told the Government Officials. In this vein, A-2 stated to BALKANY, "I think if I can hear back from you, you know, the end of the week, after [the Otisville Inmate] has had this meeting, I think we're in a position to do something." BALKANY responded, "I see. OK. . . . I'm moving ahead . . . purely on good faith, which is fine."

i. BALKANY concluded the meeting by stating "you have my word, I will do everything, and leave no stone unturned . . . I want to help everyone involved but I don't want to be accused of obstruction of justice . . . call a spade a spade . . . it's a very thin line that we're treading . . . and so are both of you . . . and I think that confidentiality is the key to it . . . . I really very truly want to see [the Hedge Fund Manager] protected because it took him his lifetime to build. . . ." BALKANY added, "I would like, at one point, if I may, not as a condition, say . . . two months from now, 10 months from now, to be able to spend 10 minutes with [the Hedge Fund Manager]. Not asking him for anything . . . just to meet him, and to say hello to him, and that's it."

#### POST-MEETING DISCUSSIONS OF THE \$4 MILLION PAYMENTS

19. On or about January 6, 2010, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, had a recorded three-way telephone conversation with A-1 and A-2. During this conversation BALKANY stated:

a. Earlier that morning, the Government Officials visited the Otisville Inmate. The Otisville Inmate told the Government Officials that he did not feel comfortable speaking to them and therefore he did not provide any information.

b. After the visit by the Government Officials, BALKANY spoke over the telephone with the Otisville Inmate. The Otisville Inmate confirmed that he did not provide any information to the Government Officials. BALKANY stated that the Otisville Inmate "made it very clear where he stands, and he's as firm as could be."

20. In that same telephone call, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, then discussed with A-1 and A-2 the structure of the payments to BALKANY. Specifically, A-2 proposed that the payment structure be modified from what had been previously discussed, on January 5, 2010, at the Connecticut meeting. Specifically, A-2 suggested that instead of paying a lump sum amount to Bais Yaakov, the Hedge Fund split the \$2 million payment into an immediate \$1 million installment and a second \$1 million installment to be paid weeks later. BALKANY countered this proposal by requesting a \$1.25 million payment up-front, and \$750,000 as the second installment. With respect to the other \$2 million payment, A-1 and A-2 agreed to pay BALKANY the full amount up-front in exchange for the 80 post-dated checks that BALKANY had offered. BALKANY further stated to A-1 and A-2 that "the success we're going to have is based completely on confidentiality." Referring to his purported conversation the previous night with the Otisville Inmate, BALKANY concluded by saying, "[t]hings are - I want you to be . . . relaxed. I'm telling you that it's going fine, and . . . sometimes . . . they have a little jitters . . . he was perfectly fine (referring to the Otisville Inmate). As a matter of fact, he thanked me, he said, 'thank you for giving me clarity of vision and peace of mind,' that's what he said when he said goodnight."

21. On or about January 11 and 12, 2010, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, had recorded telephone conversations with A-2. During these conversations BALKANY and A-2 made arrangements to meet on Friday of that week, in Manhattan, to exchange the checks. BALKANY told A-2 "I just want to give you reassurance that we're keeping our word, hundred percent - I've been on the phone twice with [the Otisville Inmate] since you and I spoke last week."

22. On or about January 13, 2010, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, had a recorded telephone

conversation with A-2. On this call A-2 advised BALKANY that the Hedge Fund did not have the checks ready. BALKANY responded by stating "I hope you can reach out to someone, someone there. Because, you know, I spared you the . . . pressure of . . . the situation." BALKANY then falsely told A-2 that on Monday, January 11, 2010, the Government Officials "came back [to Otisville] by surprise. . . . And they said [to the Otisville Inmate], 'we are ready to sweeten the pie, we're ready to . . . even above and beyond what we mentioned to you . . . .'" BALKANY added that "when I see you face-to-face, I'm gonna add in some comments that were made, of their, the thirst level of their getting [the Hedge Fund Manager]."<sup>3</sup> BALKANY falsely added that the Government Officials "were only there for him" (referring to the Otisville Inmate) and that "the thirst is tremendous."

23. On or about January 15, 2010, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, had a recorded telephone conversation with A-2. During this conversation BALKANY advised A-2 that A-2 should tell A-1 that the Government Officials made a surprise visit to the Otisville Inmate on January 11, 2010. "I think you should tell it to [A-1]. Tell him that I'm not happy about what has happened, not blaming him - of course not you . . . and that when he writes back that he's not sending the check down . . . I mean, you know, when they're gonna be ready to run with the check, it's gonna be too late." BALKANY falsely added that "within around two weeks, they're going to be coming back . . . this is very high-priority on their list."

AFTER DELAY IN RECEIVING THE \$4 MILLION PAYMENTS BALKANY  
CONTACTS THE USAO AND CONTINUES PRESSURING THE HEDGE FUND

24. On or about January 18, 2010, at approximately 8:36 a.m., MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, placed a call to the USAO and left a voicemail message stating that:

a. BALKANY is the Dean of a Hebrew day school in Brooklyn.

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<sup>3</sup> On January 11, 2010, I traveled to Otisville along with another Criminal Investigator from the USAO and an Assistant United States Attorney (the "AUSA") in connection with an investigation of MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant. At no time did I, the other Criminal Investigator, or the AUSA request to speak with or speak with the Otisville Inmate.

b. BALKANY is a spiritual advisor to many inmates, including the Otisville Inmate, whom BALKANY specifically named.

c. There is some "very vital information" that the USAO would be interested in.

d. In exchange for providing the information, BALKANY wants the Government to help the Otisville Inmate reduce his prison sentence and help BALKANY resolve some other issues in the Bureau of Prisons.

25. On or about January 18, 2010, at approximately 12:00 p.m., MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, left a voicemail message for A-2 stating, in part, "I will call tomorrow from [Israel], and give you my number in Israel - a cell phone that I will have - that you can reach me at any time. And I do want to underscore . . . that I, I think that you, and I think [A-1], fully appreciate the severity. I don't think the other two do (referring to the Hedge Fund Manager and the president of the Hedge Fund (the "Hedge Fund President")). I think they're taking it lightly and they think it's some sort of a joke, which it really is not."

26. On or about January 19, 2010, at approximately 8:03 a.m. and 8:04 a.m., MILTON BALKANY a/k/a "Yehoshua Balkany," the defendant, from Israel, left two voicemail messages with the USAO. On these voicemails BALKANY (i) provided a cellphone number where he could be reached in Israel (the "Israel Cellphone Number"); (ii) reiterated that the information that he has would be very interesting to the USAO; and (iii) stated that because the statute of limitations on the information would run out in two weeks "every day is important and crucial."

27. On or about January 19, 2010, at approximately 9:50 a.m., MILTON BALKANY a/k/a "Yehoshua Balkany," the defendant, called A-2 from Israel. During that conversation, which was recorded and to which I have listened, the following occurred:

a. A-2 advised BALKANY that the Hedge Fund Manager was having doubts about making the payment to BALKANY and believed that the Government's urgency may be because the statute of limitations on the Inside Information would soon expire. Accordingly, A-2 indicated that the Government would probably "lose interest anyway, and then they're not as likely to be poking around, seeing what they can find."

b. BALKANY responded by saying that there was urgency on the part of the Otisville Inmate because providing the Inside Information to the Government Officials is "his ticket to freedom." BALKANY, however, assured A-2 that the Otisville Inmate "does not know anything about . . . our discussions about money or anything like that. . . . it did not come up, and I would never discuss it with him. 'Cause I told you that it would be very confidential and it would be something just between us."

c. BALKANY explained that "when someone gives [Bais Yaakov] a dollar for charity . . . it's not for the actual functioning of the school as an educational institution, but all of the . . . all of the activities, which include a lot of social service" and, in that way, BALKANY "would have made sure that the [Otisville Inmate's] family was taken care of" by using a portion of the money BALKANY expected to receive from the Hedge Fund.

d. BALKANY also stated that "the risk that the [Hedge Fund Manager] is taking - that if it goes the way he says, then fine. I, I'm very happy for him, and I really . . . see him protected under any circumstance. But if it doesn't go that way, he's risking everything. He really is, he's risking everything."

28. Later that same morning, on or about January 19, 2010, at approximately 10:18 a.m., MILTON BALKANY a/k/a "Yehoshua Balkany," the defendant, called A-2 again from Israel. During that conversation BALKANY advised A-2 that, in connection with the payment to Torah Vodaath, BALKANY had already notified that school at a board meeting that they would be receiving the \$2 million loan. BALKANY stated that he "sat in front of 13 people" and "put myself on the line . . . very publicly." BALKANY added that if the Hedge Fund did not pay they were "putting [him] into a terrible position."

29. On or about January 19, 2010, at approximately 4:10 p.m. and 4:52 p.m., I placed two calls to MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, using the Israel Cellphone Number that BALKANY provided earlier that day.<sup>4</sup> I introduced myself as the Chief Investigator of the Securities Fraud Unit that prosecuted the Otisville Inmate, and advised BALKANY that I was returning his voicemail. During this call the following occurred:

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<sup>4</sup> The 4:10 p.m. call was inadvertently disconnected during our conversation because the battery on BALKANY's cellphone ran out.



a. BALKANY described generally what the Inside Information was and how the Otisville Inmate knew the Inside Information. BALKANY stated that the Otisville Inmate "was involved" in the trading and "benefitted a lot, himself, by this insider information."

b. BALKANY stated that "the statute of limitation runs out in around three weeks" and that BALKANY "made it clear [to the Otisville Inmate] that he should cooperate" and further stated that "I think he is going to cooperate." BALKANY later added, "I spoke with [the Otisville Inmate], and I convinced him that . . . he's gotta go forward."

c. BALKANY indicated that before he called the USAO he spoke with a high-ranking official in the Department of Justice who told BALKANY, "'I'll get the director of the FBI, either in Manhattan or Brooklyn, whichever one you want, to call you.'"

d. BALKANY described what he wanted in exchange for providing the cooperation of the Otisville Inmate, including, among other things, a reduced sentence for both the Otisville Inmate and another inmate whom BALKANY stated was his relative. BALKANY also described a "couple smaller favors" dealing with Bureau of Prisons issues that he wanted accomplished.

30. During these conversations I asked MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, who else knew that the Otisville Inmate was in possession of the Inside Information. BALKANY falsely stated that the only other person BALKANY told was the AUSA, who BALKANY had advised by voicemail message. BALKANY falsely asserted that he did not communicate with anyone else.

31. On or about January 20, 2010, at approximately 9:28 a.m., MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, called from Israel and left me a voicemail message stating, in substance, that he has more information and would call back.

BALKANY FRAUDULENTLY GENERATES  
ADDITIONAL PRESSURE ON THE HEDGE FUND TO PAY

32. On or about January 20, 2010, at approximately 9:30 a.m., MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, from Israel, called A-2 in New York. On that call BALKANY stated:

a. "I wanted to add a dimension to what I said to you yesterday, and I just want to take a [unintelligible word] or two. . . . Yesterday, I received . . . I got a call from the head of the criminal division. Um, he must have gotten my cell phone from my secretary, 'cause he calls me from time to time. . . . And - his name is Bob Manchak. . . . He and the Assistant U.S. Attorney . . . I spoke with them yesterday, and what they basically called . . . they wanted to know if I could help facilitate that - they're running out of time. You said, by the way, six months. They feel there's aspects of this in three weeks that run out. And, I told them, 'look, I'm in Israel, there's nothing I can facilitate that [the Otisville Inmate] should come in and - I don't know if it's to sign something, but there is a way, a technical way, that, if you do that, then you don't run out of time with the statute. . . . But they need his cooperation." Later in the conversation BALKANY added, "I gave you the names of who called me because I didn't want you to think, even one percent possibility, that I was just throwing up a scenario. . . . So I thought I would just mention the names."<sup>5</sup>

b. "And, and I really feel at this point that [the Hedge Fund] should live up to . . . what was agreed . . . and they should do it by Monday. 'Cause when I come home on Tuesday - and this is not a threat, I'm just telling you, because I'm not involved. . . . But, come Tuesday, when I come home, um, if by Monday this is [unintelligible word] concluded . . . my secretary meets you, or . . . whatever we arrange. Um, then I just feel that the deal was not lived up to, there is no deal, and I'm just gonna go back to square one and save [the Otisville Inmate], and get him out."

c. "[E]verything that I had said I would do, I did. So, we're just at a standstill, and it's their choice (referring to the Hedge Fund Manager and the Hedge Fund President). But I thought, in view of this call (referring to the call from the USAO), after you and I spoke twice yesterday, and I got this call - it was almost 12 o'clock at night [in Israel], it was around 11:30 - um, I just thought I would wait [un]til you're in the office and let you know about it."

d. "But, if it's 'yes,' then . . . the latest, Monday. And when I arrive . . . Tuesday, if, if they have decided, you know, just to stay tight and they'll take, you know, their, their chances, or whatever - god bless them, from me

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<sup>5</sup> There was not an Assistant United States Attorney, or anyone else, on this call I made to BALKANY.

they'll never have a bad word. And my, my, uh, mission then is to just save [the Otisville Inmate] at any expense."

e. Referring to BALKANY's telephone conversation with me, BALKANY stated, "I see that they're very much onto this issue. And [the Hedge Fund Manager] is their target." BALKANY falsely advised A-2 that the Government Officials had planned a meeting with the Otisville Inmate the following week, either Wednesday or Thursday. Specifically referencing the urgency of the situation, BALKANY falsely told A-2 that I said "'Listen, we have a problem with statute of limitations, we want to make sure that's not gonna be a problem.' . . . [A]nd for some reason, they feel that [the Otisville Inmate] is the key."

33. On or about January 20, 2010, at approximately 5:23 p.m., MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, left me a voicemail message from Israel stating, in substance, that he has more information and would call back.

34. On or about January 21, 2010, at approximately 10:12 a.m., 1:00 p.m. and 1:21 p.m., I had telephone conversations with MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, who was in Israel.<sup>6</sup> During those calls BALKANY stated, among other things, the following:

a. The Inside Information pertained to six stocks, which BALKANY named, that were purportedly traded by the Hedge Fund in 2004 and 2005.

b. The Otisville Inmate had first-hand knowledge of the Inside Information because he worked at the Hedge Fund.

c. BALKANY wanted to arrange a meeting between the Otisville Inmate and the USAO sometime next week, and stated "we could have this meeting, have all your questions answered. Let him do it face-to-face to you." BALKANY added, "I think that . . . your meeting him at this juncture would be the most valuable thing, provided that there is total cooperation. . . . which I think you will have."

d. In exchange for setting up a meeting with the Otisville Inmate and encouraging his cooperation, BALKANY sought to get "a better deal" for the Otisville Inmate and another

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<sup>6</sup> BALKANY placed calls to me at 10:12 a.m. and 1:00 p.m. Because the 1:00 p.m. call was inadvertently cut off during our conversation, I called him at 1:21 p.m.

inmate, as well as have the USAO perform a few "favours" that concerned issues at the Bureau of Prisons.

35. During the 10:12 a.m. conversation, I asked MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, whom he had told that the Otisville Inmate had Inside Information about the Hedge Fund. BALKANY stated that he mentioned the situation to two other New York lawyers, whom he identified by name (not A-1 or A-2), but that BALKANY did not provide the name of the Otisville Inmate to either lawyer. When I asked BALKANY if the name of the Otisville Inmate was said to anyone else, BALKANY falsely stated, "Not that I know of." In the 1:00 p.m. conversation that same day, I specifically stated that I was interested in whether BALKANY had reason to believe that the Hedge Fund knew about the Otisville Inmate and the Inside Information. BALKANY advised me that he thought for sure that the Hedge Fund knew "things are brewing" because of recent newspaper articles in the press about Government investigations of the Hedge Fund. However, during the 1:21 p.m. conversation, BALKANY falsely stated that, other than his discussions with the Government, he told only one other person about this information - an individual in the Jewish law community whom BALKANY consulted for the purpose of seeking advice about how to proceed. BALKANY also reiterated that he spoke, in general terms, with two other New York lawyers about this information, though he stated that he did not provide either lawyer with the name of the Otisville Inmate or specifics about the Inside Information. During these three conversations with me, BALKANY concealed that he had numerous conversations and a meeting with representatives from the Hedge Fund during which they discussed the Otisville Inmate and the alleged Inside Information.

36. On or about January 29, 2010, at approximately 11:12 a.m., I placed a telephone call to MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant. During this telephone call, I stated that a portion of the information that BALKANY had provided me did not appear to be accurate. Specifically, I relayed that, contrary to what BALKANY advised me, the Otisville Inmate did not previously work at the Hedge Fund. BALKANY advised me that he would be in contact with the Otisville Inmate and get back to me with additional detail the following Monday, February 1, 2010.

37. On or about January 29, 2010, at approximately 1:31 p.m., MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, had a recorded telephone conversation with A-2. During this conversation BALKANY falsely stated that he "did get . . . a call from the, uh, [Assistant] U.S. Attorney" who was

very anxious to meet with the Otisville Inmate. A-2 advised BALKANY that the Hedge Fund President wanted to discuss the situation directly with BALKANY. BALKANY agreed to have a discussion with the Hedge Fund President.

38. On or about January 29, 2010, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, had a recorded telephone conversation with A-2, and a Criminal Investigator posing in an undercover capacity as the Hedge Fund President (the "UC-HF President"). During this conversation, to which I listened, the following occurred:

a. When the UC-HF President asked BALKANY to explain what the Hedge Fund would be buying if it made the payments, BALKANY told the UC-HF President "I would probably be a little more comfortable just, you know, seeing you face-to-face. Because not everything - even though it's legal, and nothing improper . . . not everything is for a telephone. But I can just tell you this. You have no idea, the pressure and the thirst, on behalf of the government, that's out there. You have no idea. . . I think [I] did a very loyal and faithful thing . . . in trying to protect reputations and to do - because this person was being sought after . . . beyond imagination. . . . And not on the side of the government."

b. BALKANY reassured the UC-HF President that, if the Hedge Fund paid the money, "you can go to sleep at night completely comfortable, without any worry. That's what I can tell you."

c. BALKANY advised the UC-HF President that if the Hedge Fund paid the money, the Otisville Inmate would not say anything about the Hedge Fund to the USAO, but rather he would discuss other hedge funds and individuals.

d. BALKANY falsely stated that the Government Officials were coming back to visit the Otisville Inmate on Tuesday and that "they called me [in Israel] at least four or five times" because "they want me to move him along. . . . and shortly, he will meet with them."

39. On or about February 1, 2010, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, had two recorded telephone conversations with A-2. During these conversations BALKANY asked A-2 whether the two of them were going to meet to exchange the checks. BALKANY indicated that time was almost out because BALKANY had promised to call the Government back by the end of the day.

40. On or about February 2, 2010, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, called me. During this conversation, BALKANY stated, "I would respectfully and courteously suggest to you that what we do at this point is, I could come by your office and pick you up, we can drive up (referring to Otisville). . . and spend an hour or two with the [Otisville Inmate]." BALKANY stated that he has discussed this with the Otisville Inmate, who was receptive to the visit. I indicated that I wanted more information about how the Otisville Inmate knew the Inside Information, and BALKANY again suggested that we travel to Otisville to speak directly with the Otisville Inmate. BALKANY concluded the conversation by stating, "think about it and let me, you know, next call is yours, yours to me . . . and just let me know . . . do . . . we go forward or do we stop at this point, so to speak." At no point did I state that I or anyone on behalf of the USAO made a decision to visit Otisville.

41. On or about February 3, 2010, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, had a recorded telephone conversation with A-2. During this conversation, BALKANY falsely advised A-2 that he spoke yesterday with "the people in Manhattan" and that they are going next week "either Tuesday or Wednesday . . . to the prison." BALKANY indicated that he was extending this "courtesy" of notifying A-2 that he was "on the phone with them a few times yesterday" (referring to the USAO).

42. On or about February 4, 2010, at approximately 3:00 p.m., MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, left me a voicemail message. BALKANY asked that I return his call and let him know whether I intended to visit the Otisville Inmate next week.

43. On or about February 5, 2010, I returned the February 4, 2010 call and had a conversation with MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant. During this call I stated that I would definitely not be going to visit the Otisville Inmate next week and that I was still considering whether I had any interest in pursuing the information at all. I specifically stated that "at this point the scales are probably tipping towards I'm . . . not convinced that this is a worthwhile investment of my time." BALKANY repeated his request that we travel to Otisville, and then offered the following alternative: "You know, maybe if you didn't want to go up, maybe I would just make a conference call. I would go up there and the three of us would be together on the phone. In other words, the prison could easily arrange that he and I be on the phone, and that you be in your office on the phone and ask him your questions." I

concluded the conversation by advising BALKANY that "at this point, I'm probably more unconvinced . . . but I will give it some more thought."

44. On or about February 8, 2010, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, had a recorded telephone conversation with A-2. During this conversation, BALKANY falsely stated that the Government Officials were scheduled to meet with the Otisville Inmate on Wednesday of that week. Specifically, BALKANY stated "I just wanted to report to you that we set the time that we're going. We're going this Wednesday at three." BALKANY added, "I can't push off the meeting unless they push it off." BALKANY asked whether the Hedge Fund was still considering paying him the money, and advised "I think it's in their best interest." BALKANY added that in another two weeks the USAO may start sending out subpoenas at which point "it's out in the open." A-2 told BALKANY that A-2 would contact BALKANY the following week.

45. On or about Thursday, February 11, 2010, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, had a recorded telephone conversation with A-2. During this conversation, the following occurred:

a. BALKANY falsely stated that the meeting in Otisville that had been scheduled for Wednesday was cancelled because of the snowstorm on February 10, 2010.

b. BALKANY falsely stated that due to the impending snowstorm he met with me on Tuesday, February 9, 2010 for approximately one hour.

c. BALKANY stated that during his fictitious meeting with me, I provided him with a list of 24 questions that I wanted the Otisville Inmate to answer by next Friday, and that 9 of the 24 questions were focused on the Hedge Fund Manager and/or the operations of the Hedge Fund.

d. BALKANY indicated that his "goal" was that he would have some "good news" from A-2 by Monday or Tuesday of the following week regarding the Hedge Fund's decision to pay BALKANY, and that in return, BALKANY was going to "take the entire Connecticut segment out of the package" by telling the Government Officials that the Otisville Inmate "is not willing to cooperate [against the Hedge Fund Manager] but here is your answers to the other 15 [questions]".

e. BALKANY asked about the amount of money the

Hedge Fund would pay him, and suggested that since several weeks have now passed the Hedge Fund pay Bais Yaakov 2 million "up-front" instead of making payment in two installments (\$1.25 million and \$750,000) as previously agreed.

f. BALKANY concluded by falsely stating that he promised to contact me next week, Thursday or Friday. BALKANY told A-2 that he was trying to buy the Hedge Fund as much time as possible. In describing BALKANY's fictitious meeting with me, BALKANY told A-2 that I was pressuring BALKANY to act quickly. Specifically, BALKANY told A-2: "He was pressing me, he said 'Not later than Friday because we want to begin moving ahead. . . .'"

#### BALKANY RECEIVES PAYMENT FROM THE HEDGE FUND

46. On or about February 17, 2010, MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, had a recorded telephone conversation with A-2. During this conversation A-2 advised BALKANY that the Hedge Fund would provide the checks to BALKANY. BALKANY and A-2 agreed to meet at 10:00 a.m. the following day, in Manhattan.

47. On or about February 18, 2010, at approximately 9:45 a.m., MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, had a meeting with A-2 in Manhattan. This meeting was video- and audio-recorded. After the meeting A-2 advised me that the following occurred:

a. A-2 gave BALKANY two checks drawn upon a closed account from the Hedge Fund (the "Hedge Fund Account"):  
(i) a check in the amount of \$1.25 million payable to "Bais Yaakov of Brooklyn"; and (ii) a check in the amount of \$2 million payable to "Torah Vodaath."

b. BALKANY provided A-2 with two stacks of post-dated checks.

c. BALKANY falsely stated to A-2 that the USAO was scheduled to meet with the Otisville Inmate tomorrow, but that the Hedge Fund and the Hedge Fund Manager would not be discussed by the Otisville Inmate with the Government Officials. BALKANY reiterated that the USAO's interest in the Hedge Fund and the Hedge Fund Manager was high.

48. On or about February 18, 2010, at approximately 11:00 a.m., I surveilled MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, standing outside of a Citibank branch in Borough Park, Brooklyn. At that time I received a telephone call



from A-2, who advised me that A-2 received an urgent message from BALKANY at approximately 10:55 a.m.

49. On or about February 18, 2010, at approximately 1:00 p.m., I had a conversation with A-2 and learned the following:

a. A-2 returned BALKANY's 10:55 a.m. message at approximately 11:05 a.m. BALKANY stated that he was inside the Citibank branch and that he attempted to deposit one of the checks into an existing Bais Yaakov account at Citibank, but that BALKANY was advised that the Hedge Fund Account was closed.

b. At approximately 11:15 a.m., A-2 had another conversation with BALKANY during which A-2 explained that there was a mix-up with the accounts, and that A-2 could try to have the Hedge Fund send the money to BALKANY by wire transfer.

c. At approximately 11:40 a.m., BALKANY called A-2 and provided the Citibank branch address as well as wire instructions for the money transfer.

50. On or about February 18, 2010, at approximately 1:20, I had a conversation with another criminal investigator who spoke with a Citibank employee, and learned the following:

a. MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, contacted the Citibank branch yesterday and indicated that he wanted to open an account the following day.

b. BALKANY went to Citibank earlier today. At that time, BALKANY completed certain paperwork and opened a Citibank bank account in the name of "Bais Yaakov of Brooklyn." BALKANY intended to deposit checks for approximately \$1.2 million and \$2 million into the newly opened account.

WHEREFORE, deponent prays that a warrant be issued for the arrest of MILTON BALKANY, a/k/a "Yehoshua Balkany," the defendant, and that he be arrested and imprisoned or bailed, as the case may be.



ROBERT MANCHAK  
Criminal Investigator  
United States Attorney's Office  
Southern District of New York

Sworn to before me this  
18 day of February, 2010



United States Magistrate Judge  
Southern District of New York

**KEVIN NATHANIEL FOX**  
United States Magistrate Judge  
Southern District of New York