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IN THE FIFTH DISTRICT COURT
BEAVER COUNTY, STATE OF UTAH

STATE OF UTAH,

Plaintiff,

vs.

WAYNE HANSEN HSIUNG

25 The Plaza Drive
Berkeley, California 94705
DOB: 06/18/1981,

PAUL PICKLESIMER

2248 Dwight Way
Berkeley, California
DOB: 12/16/1977,

SAMER THOMAS MASTERSON

2935 16th Street
San Francisco, California 94103
DOB: 04/27/1994,

INFORMATION

Warrants of Arrest

Case No. _____

Case No. _____

Case No. _____

<p>ANDREW GEORGE SHARO 1515 Dwight Way Berkeley, California 94703 DOB: 04/29/1994,</p> <p>JONATHAN FROHNMAYER 1559 Lewis Street Santa Clara, California 95050 DOB: 12/07/1984,</p> <p>Defendants.</p>	<p>Case No. _____</p> <p>Case No. _____</p> <p>Judge: Keith C. Barnes</p>
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The undersigned Special Agent M. Thompson of the Utah Attorney General’s Office, states on information and belief that the defendants, WAYNE HANSEN HSIUNG, PAUL PICKLESIMER, SAMER THOMAS MASTERSON, ANDREW GEORGE SHARO, and JONATHAN FROHNMAYER either directly or as a party to the offense, individually or on behalf of Direct Action Everywhere, committed the crimes of:

COUNT 1: PATTERN OF UNLAWFUL ACTIVITY, 76-10-1603 UCA, a Second Degree Felony, as follows: That sometime between January 1, 2017, through March 7, 2017, in Beaver County, Utah the defendants (1) received proceeds derived, either directly or indirectly, from a pattern of unlawful activity in which the defendants participated as a principal, and used or invested, directly or indirectly, any part of that income, or the acquisition of any interest in, or the establishment or operation of, an enterprise; to wit: Direct Action Everywhere (hereinafter “DxE”); (2) through a pattern of unlawful activity, acquired or maintained, directly or indirectly, an interest in or control of said enterprise; (3) was employed by or associated with said enterprise, to conduct or participate, directly or indirectly, in the conduct of that enterprise’s affairs through a pattern of unlawful activity; or (4) conspired to violate one or more provisions of Subsection (1), (2), or (3) of 76-10-1603 UCA, the Pattern of Unlawful Activity Act. Defendants engaged in conduct which constituted the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics. Taken together, the episodes demonstrated continuing unlawful conduct and the episodes are related to each other or to the enterprise as defined in 76-10-1602(4)(r)(v) UCA; to wit: defendants are members of DxE, an activist group in California who through association with the DxE organization engaged in a pattern of unlawful activity and committed the offenses of burglary and theft targeting animal enterprises located in Utah and other states. The defendants also videotaped their criminal acts to solicit monthly donations for the DxE open rescue network.

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NOTICE IS HEREBY GIVEN pursuant to 76-10-1603.5 UCA that in addition to all other penalties prescribed by law, if fault is established under the Pattern of Unlawful Activity Act, the court may order the persons found guilty of the felony to pay to the State or to the county who brought the action, the costs of investigating and prosecuting the offense. In addition, upon conviction the court may (1) order restitution to any victim or rightful owner of property obtained directly or indirectly; (2) impose reasonable restrictions on the future activities of any person; and/or (3) prohibit a person from directly or indirectly engaging in the same type of conduct engaged in by said enterprise.

COUNT 2: BURGLARY COMMITTED AGAINST AN ANIMAL ENTERPRISE, 76-6-202 UCA, a Second Degree Felony, as follows: That on or about March 7, 2017, in Beaver County, State of Utah, the defendants entered or remained unlawfully in a building or a portion of a building with intent to commit a felony or theft; to wit: defendants unlawfully entered a gestation barn on Smithfield Foods property with the purpose of committing theft of property (swine).

NOTICE IS HEREBY GIVEN pursuant to 76-6-110 (2)(3) UCA, that the defendants are subject to an enhanced penalty as provided in that section because the above offense was committed with the intent to halt, impede, obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take, or cause the loss of livestock property (swine) owned by, used by, or in the possession of a lawful animal enterprise as defined in 76-6-110(1)(a)(b) UCA.

COUNT 3: BURGLARY COMMITTED AGAINST AN ANIMAL ENTERPRISE, 76-6-202 UCA, a Second Degree Felony, as follows: That on or about March 7, 2017, in Beaver County, State of Utah, the defendants entered or remained unlawfully in a building or a portion of a building with intent to commit a felony or theft; to wit: defendants unlawfully entered a farrowing barn on Smithfield Foods property with the purpose of committing theft of property (swine).

NOTICE IS HEREBY GIVEN pursuant to 76-6-110(2)(3) UCA, that the defendants are subject to an enhanced penalty as provided in that section because the above offense was committed with the intent to halt, impede, obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take, or cause the loss of livestock property (swine) owned by, used by, or in the possession of a lawful animal enterprise as defined in 76-6-110(1)(a)(b) UCA.

COUNT 4: THEFT OF LIVESTOCK PROPERTY (SWINE) COMMITTED AGAINST AN ANIMAL ENTERPRISE, 76-6-404 and 76-6-412(1)(b)(iii) UCA, a Second Degree Felony, as follows: That on or about March 7, 2017, in Beaver County, State of Utah, the defendants obtained or exercised unauthorized control over the property of another with a purpose to deprive them thereof; to wit: defendants entered barn F1 and barn G2 on Smithfield Foods property and obtained or exercised unauthorized control over two swine owned by a commercial animal enterprise.

NOTICE IS HEREBY GIVEN pursuant to 76-6-110(2)(3) UCA, that the defendants are subject to an enhanced penalty as provided in that section because the above offense was committed with the intent to halt, impede, obstruct, or interfere with the lawful operation of an animal enterprise

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or to damage, take, or cause the loss of livestock property (swine) owned by, used by, or in the possession of a lawful animal enterprise as defined in 76-6-110(1)(a)(b) UCA.

COUNT 5: RIOT, 76-9-101 UCA a Class A Misdemeanor, as follows: That on or about March 7, 2017, in Beaver County, State of Utah, the defendants assembled with two or more persons with the shared purpose of committing an offense against a person or property of another who they supposed to be guilty of a violation of law, believing that two or more other persons in the assembly had the same purpose. The defendants assembled with the purpose and intent to halt, impede, obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take or cause the loss of property owned by, used by, or in the possession of a lawful animal enterprise, to wit: defendants assembled on Smithfield Foods property with the intent to commit theft of property (swine) owned by an animal enterprise.

NOTICE IS HEREBY GIVEN pursuant to 76-6-110(2)(3) UCA, that the defendants are subject to an enhanced penalty as provided in that section because the above offense was committed with the intent to halt, impede, obstruct, or interfere with the lawful operation of an animal enterprise or to damage, take, or cause the loss of livestock property (swine) owned by, used by, or in the possession of a lawful animal enterprise as defined in 76-6-110 (1)(a)(b) UCA.

THIS INFORMATION IS BASED ON EVIDENCE OBTAINED FROM THE FOLLOWING WITNESSES: M. Thompson, S. Sherwood, G. Woolsey, C. Andersen.

DECLARATION OF PROBABLE CAUSE:

Smithfield Foods is a commercial animal enterprise which operates several farm sites in or around Beaver County, Utah. The operation related to this case involves barns G1 and F2 where swine are bred and raised for eventual harvest. Direct Action Everywhere (DxE) based in California, is an animal rights activist group founded and operated inter alia, by defendant HSIUNG. DxE has a website where “rescue” videos and stories are published for the public’s view. Many of HSIUNG’S followers maintain publicly available Facebook pages where they openly identified themselves as DxE member activists and published photos, videos and comments about DxE and the open rescue network’s activities, including publishing videos related to this case.

On or about July 6, 2017, P. Goff, an employee of Smithfield Foods, called the Beaver County Sheriff’s Office to report a theft that had occurred at one of the farm sites. Investigators with the Federal Bureau of Investigation (FBI) and the Beaver County Sheriff’s Office conducted a joint investigation based on this report. P. Goff reported that a video surfaced online which showed defendants stealing swine from Smithfield Food’s barns. P. Goff also reported that *The New York Times* published a story related to the video. A reporter from *The New York Times* contacted Smithfield Foods days earlier asking for a statement related to the video. The associated story was published online on or about July 6, 2017 and titled, *Animal Welfare Groups Have a New Tool: Virtual Reality*. The associated video, titled *Operation Deathstar* was attached to the online story.

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Beaver County Sheriff's Office deputies searched the Internet's public spaces for a video related to DxE and the reported theft of swine. The deputies found a video online which showed the activities P. Goff had reported. The video showed that three of the five defendants unlawfully entered onto Smithfield Foods property and went into barn G1 and barn F2, which are specific barns among several other separate buildings on the property. The video showed three defendants walking through the barns and stealing two swine from barn F2. The fourth and fifth defendants contributed to the criminal activity, were on the Smithfield Foods property at the time, and assisted with the handling of the stolen swine.

Based on the video footage and in-person visits to the Smithfield Foods site, Beaver County Sheriff's Office deputies, identified barn site #41102 as the site depicted in the online video and individual buildings G1 and F2 as buildings the suspects burglarized. To identify barn site #41102 and individual buildings G1 and F2 as the sites of the activity depicted in the video, deputies compared numbers on doors/buildings, stall/feeder orientation and other farm equipment characteristics against what was depicted in the video. Beaver County Sheriff's Office deputies observed that the video images of the stolen swine were sufficiently clear so that the numbers on the swine's ear tags could be seen. Smithfield Foods confirmed by a record check that the ear tag numbers identified the stolen swine as property belonging to Smithfield Foods. Smithfield Foods officials viewed the video and cross referenced the images of the ear tags with their business records and determined that the stolen swine were approximately three weeks old at the time of the theft, putting the burglary and theft incident at or about early March 2017.

Investigators with the FBI and Beaver County Sheriff's Office researched DxE's website and corresponding publicly available social media sites such as Facebook. Investigators identified the five males shown in DxE's video as defendants HSIUNG, PICKLESIMER, MASTERSON, FRONHMAYER and SHARO. The FBI and Beaver County Sheriff's Office confirmed the identities of each of the five defendants through driver license records and photographs.

The FBI and Beaver County Sheriff's Office reviewed a copy of the aforementioned video. The video is titled, *Operation Deathstar* and is an approximately 11-minute video shot in 360-degree color footage. The video footage or "virtual reality video" allowed the viewer to pan the screen around nearly the entire visible environment the camera captured. The quality and digital attributes of the virtual reality footage made it possible to identify the five defendants depicted in the video footage.

The FBI and Beaver County Sheriff's Office searched DxE's public website for information about the swine and their whereabouts. Photos taken after the theft of the swine showed the swine at Ching Farm Rescue and Sanctuary (Chings) in Herriman, Utah, owned by Faith Ching. On August 22, 2017, investigators of the FBI and Beaver County Sheriff's Office served a search warrant at Chings. The owner of Chings acknowledged that the swine had been at Chings but were moved. A volunteer further confirmed the swine had been at Chings and moved to Colorado weeks earlier because one of the swine needed a hernia surgery. The FBI conducted searches of publicly available Internet sites for animal sanctuaries in Colorado. The FBI found a

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sanctuary called, Luvin Arms Animal Sanctuary (Luvin Arms) in Erie, Colorado. The FBI also found that Luvin Arms had a Facebook page with photos of young swine pictured on the page, that Faith Ching posted comments to the site, and that the swine looked like the stolen swine. Other posts to the same site alluded to the fact that the pictured swine were the swine taken from Smithfield Foods and were housed at Chings.

The FBI, subpoenaed cell phone records associated with the defendants. The cell phone records were subpoenaed because the FBI identified the defendants pictured in the video, *Operation Deathstar*, and therefore associated the defendants with the criminal activity at Smithfield Foods. Call and cell tower activity shown on the defendants' cell records suggest that the defendants were in the area of Smithfield Foods in Beaver, Utah on or about March 7-8, 2017. This information corroborated the environmental situation and activities shown in the video, *Operation Deathstar*, as well as Smithfield Foods records related to the location and approximate age of the stolen swine.

On their individual and group Facebook accounts, the defendants posted pictures and comments about each other or their activities related to DxE's concerted efforts against commercial meat industries. DxE and its members openly advocated disrupting any retail outlets associated with some of the major agricultural meat producers. They also advocated "open rescue" and or "investigations," which, from the facts of this and other cases, as well as other detailed events in other social media posts, show they committed criminal acts of trespassing, theft, and burglary against the commercial meat industry.

An investigative report from the Sanpete County Sheriff's Office showed that sometime between January 1, 2017 and January 27, 2017, the five defendants entered a Norbest turkey farm in Moroni, Utah and illegally stole three turkeys from the facility to promote the "open rescue" mission of DxE. Defendants filmed and photographed their theft of the turkeys releasing a video in November 2017. Defendants were charged in the Sixth District Court for Sanpete County with two felony charges for Burglary of a Building and Theft of poultry being raised for commercial purposes. (See Utah State Criminal cases numbered #181600077 (HSIUNG), #181600079 (PICKLESIMER), #181600076 (MASTERSON), #181600078 (SHARO), and #181600074 (FROHNMAYER).

The defendants openly publicized their own or others' arrests related to similar criminal acts as this case. Defendants used social media to publicize the open rescue of animals which included posts containing images and comments related to defendant HSIUNG'S May 2017 arrest for trespassing and theft against a poultry sales business in San Francisco, California. A related San Francisco Police Department report indicated that, on May 30, 2017, HSUING, and over one hundred other protesters converged on Ming's Poultry and that HSUING entered and remained unlawfully on the business premises. The complainants on the case reported that protesters had stolen live poultry from the business. It was also found that on February 16, 2018, North Carolina authorities issued an arrest warrant for defendant HSIUNG related to a burglary of a goat farm.

The DxE website promotes “open rescue” as it’s newest community project to rescue animals. The website offers training and support for other interested individuals. The website solicits donations and offers the purchase of a monthly subscription which entitles the donor to an annual update on DxE’s movement. Smithfield Foods “open rescue” is featured on the website as follows: “With your support, DxE has shared the story of dozens of animals saved from abuse, including Rosie, a piglet rescued from a Smithfield pig farm.”

REQUEST FOR ISSUANCE OF A WARRANT:

The State of Utah hereby requests that the Court issue a Warrant of Arrest in the above-captioned case for the following reasons:

- (1) To prevent risk of injury to person or property: the defendants committed burglary against a lawful animal enterprise and stole livestock owned by Smithfield Foods with the intent to impede commercial production. The defendants have previously researched, planned and executed similar acts against lawful animal enterprises in Utah and other states.
- (2) To secure the appearance of the accused: the defendants are not residents of Utah and have no known family or economic ties to the community which would assure their appearance in further proceedings. Additionally, the defendants committed crimes across several states and appear comfortable with interstate travel. It is foreseeable that the defendants would engage in such travel to avoid appearing on these charges.

Pursuant to 78B-18a-106 UCA (2018) I declare under criminal penalty under the law of Utah that the foregoing is true and correct.

EXECUTED ON: May 21, 2018

/s/ M. Thompson

M. THOMPSON

Declarant

[Signature added with permission]

Authorized for presentment and filing:
SEAN D. REYES
Utah Attorney General

/s/ Janise K. Macanas

JANISE K. MACANAS

Assistant Attorney General

DATED: May 21, 2018