

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**UNITED STATES OF AMERICA,**

Plaintiff,

v.

**Case No. 17CR160**

**RONALD D. VAN DEN HEUVEL,**

Defendant.

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**POST EVIDENTIARY HEARING MEMORANDUM**

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The defendant maintains the positions previously articulated in prior submissions, as they relate to the facial invalidity of the warrants. The application sought and the issuing court authorized, a constitutionally impermissible general search. The infirmities were not saved by any of the articulated theories espoused by the government. It is indisputable that the warrant was facially overbroad, and that, as a consequence, the searching officers had unfettered discretion to seize everything in sight.

If, on the other hand, the warrant can some how be saved, the secondary issue is whether the scope was exceeded, and if so, what is the appropriate remedy. The hearing testimony unequivocally established that the search team at the Lawrence Drive addresses took virtually everything in sight. They utilized a novel search procedure of "Seize Now And Review For Legality Later". In stark contrast to the warrant execution conducted by the FBI at American

Boulevard, the Lawrence Drive officers took virtually everything. The same imaging process employed by the FBI at the other locations was not a part of the process at the business' main facility.

The hearing testimony showed that Shartner and company apparently couldn't be bothered by the effort needed to review and separate what was appropriately seized from that which was outside the scope at the time of the search. It is further clear that this was Shartner's first venture into large white collar business investigations and corresponding search warrant application and execution. Furthermore, the record also established that there was virtually no effort expended to educate the assisting officers to determine what fell within the allowable scope.

Nothing presented by the government satisfied the burden it must satisfy to establish that the "Good Faith" exception saved this search. The events of July 2, 2015 were in "flagrant disregard" of any theoretical limits established by the warrant itself. All evidence in this case should be suppressed.

Dated at Milwaukee, Wisconsin this 7<sup>th</sup> day of September, 2018.

Respectfully Submitted,

/s/ Robert G. Lebell

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