

State of Wisconsin

Circuit Court

Fond du Lac County

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STATE OF WISCONSIN

Plaintiff,

-VS-

Sterling W. Kienbaum  
3660 Hickory Ridge Rd  
Oshkosh, WI 54904  
Alias:

DA Case No.: 2016FL001510  
Assigned DA/ADA: Dennis R. Krueger  
Agency Case No.:

Court Case No.: 2017CF000124

ATN:

Defendant,

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**Amended Criminal Complaint**

Dennis R. Krueger, Deputy District Attorney, being first duly sworn, states that:

**Count 1: RACKETEERING - PARTY TO A CRIME**

The above-named defendant On or about and between May 23, 2008 and May 22, 2015, in the City of Fond du Lac, Fond du Lac County, Wisconsin, as a party to a crime, associated with, an enterprise conducted or participated, directly or indirectly, in the enterprise through a pattern of racketeering activity., contrary to sec. 946.83(1), 939.50(3)(e), 939.05, 946.84(2) and (3) Wis. Stats., a Class E Felony, and upon conviction may be fined not more than Fifty Thousand Dollars (\$50,000), or imprisoned not more than fifteen (15) years, or both.

And in lieu of a fine under 946.84(1), any person convicted of engaging in conduct in violation of s. 946.83, through which he or she derived pecuniary value, or by which he or she caused personal injury or property damage or other loss, may be fined not to exceed 2 times the gross value gained or 2 times the gross loss caused, whichever is the greater, plus court costs and the costs of investigation and prosecution, reasonably incurred. In calculating the amount of fine based on personal injury, any measurement of pain and suffering shall be excluded. The court shall hold a hearing to determine the amount of the fine authorized by sub. (2).

**Count 2: THEFT - FALSE REPRESENTATION OVER \$10,000 - PARTY TO A CRIME**

The above-named defendant On or about and between May 23, 2008 and May 22, 2011, in the City of Fond du Lac, Fond du Lac County, Wisconsin, as a party to a crime, did obtain title to property of Sadoff Iron and Metal, having a value greater than \$10,000, by intentionally deceiving the person with a false representation which he knew to be false, made with intent to defraud and which defrauded the person, contrary to sec. 943.20(1)(d) and (3)(c), 939.50(3)(g), 939.05 Wis. Stats., a Class G Felony, and upon conviction may be fined not more than Twenty Five Thousand Dollars (\$25,000), or imprisoned not more than ten (10) years, or both.

**Count 3: THEFT - FALSE REPRESENTATION OVER \$10,000 - PARTY TO A CRIME**

The above-named defendant On or about and between May 23, 2011 and May 22, 2012, Fond du Lac County, Wisconsin, as a party to a crime, did obtain title to property of Sadoff Iron and Metal, having a value greater than \$10,000, by intentionally deceiving the person with a false representation which he knew to be false, made with intent to defraud and which defrauded the person, contrary to sec. 943.20(1)(d) and (3)(c), 939.50(3)(g), 939.05 Wis. Stats., a Class G Felony, and upon conviction may be fined not more than Twenty Five Thousand Dollars (\$25,000), or imprisoned not more than ten (10) years, or both.

**Count 4: THEFT - FALSE REPRESENTATION OVER \$10,000 - PARTY TO A CRIME**

The above-named defendant On or about and between May 23, 2012 and May 22, 2013, Fond du Lac County, Wisconsin, as a party to a crime, did obtain title to property of Sadoff Iron and Metal, having a value

greater than \$10,000, by intentionally deceiving the person with a false representation which he knew to be false, made with intent to defraud and which defrauded the person, contrary to sec. 943.20(1)(d) and (3)(c), 939.50(3)(g), 939.05 Wis. Stats., a Class G Felony, and upon conviction may be fined not more than Twenty Five Thousand Dollars (\$25,000), or imprisoned not more than ten (10) years, or both.

**Count 5: THEFT - FALSE REPRESENTATION OVER \$10,000 - PARTY TO A CRIME**

The above-named defendant On or about and between May 23, 2013 and May 22, 2014, Fond du Lac County, Wisconsin, as a party to a crime, did obtain title to property of Sadoff Iron and Metal, having a value greater than \$10,000, by intentionally deceiving the person with a false representation which he knew to be false, made with intent to defraud and which defrauded the person, contrary to sec. 943.20(1)(d) and (3)(c), 939.50(3)(g), 939.05 Wis. Stats., a Class G Felony, and upon conviction may be fined not more than Twenty Five Thousand Dollars (\$25,000), or imprisoned not more than ten (10) years, or both.

**Count 6: THEFT - FALSE REPRESENTATION OVER \$10,000 - PARTY TO A CRIME**

The above-named defendant On or about and between May 23, 2014 and May 22, 2015, Fond du Lac County, Wisconsin, as a party to a crime, did obtain title to property of Sadoff Iron and Metal, having a value greater than \$10,000, by intentionally deceiving the person with a false representation which he knew to be false, made with intent to defraud and which defrauded the person, contrary to sec. 943.20(1)(d) and (3)(c), 939.50(3)(g), 939.05 Wis. Stats., a Class G Felony, and upon conviction may be fined not more than Twenty Five Thousand Dollars (\$25,000), or imprisoned not more than ten (10) years, or both.

**PROBABLE CAUSE:**

1. The basis for complainant's charge of said offense is based on complainant's review of the reports of members of the City of Fond du Lac Police Department, whom your complainant has worked with in the past and knows to be competent and reliable.
2. Lead Detective Steve Kaufman and Detective Nick Hahn began an investigation into concerns that employees of Fox Valley Iron and Metal Company (Fox Valley) had been filling scrap automobiles with extra weight, and then selling the scrap with the added weight to Sadoff Iron and Metal (Sadoff's) for a greater value to Fox Valley, defrauding Sadoff's. Kaufman met with Brad Lasky, an owner of Sadoff's, who stated that he believed Sadoff's was being defrauded, because of excess payments to Fox Valley for the loads containing extra weight received from Fox Valley. Lasky indicated that the amount Fox Valley defrauded Sadoff's for the first months of 2015 was in excess of \$100,000. Sadoff's is located in the City and County of Fond du Lac, Wisconsin.
3. Hahn contacted the Wisconsin Department of Financial Institutions and obtained Certified Articles of Incorporation dated March 31, 1994, which indicate that Sterling Kienbaum is the registered agent of Fox Valley Iron and Metal, a for profit corporation, and provided his name, signature and complete address as one of the business's Incorporators
4. Kaufman understood the business process from speaking with Lasky and reviewing video recordings as Fox Valley Iron and Metal bringing in truckloads of scrap. The trucks are weighed with the scrap on the truck, the truck is unloaded and the truck is weighed again after it is emptied. Fox Valley Iron and Metal is then paid an amount for the difference between the weight of the truck with the scrap loaded, minus the weight of the truck after it is unloaded.

5. Kaufman reviewed surveillance photos provided to him by Brad Lasky of Sadoff's which, according to Lasky, is an indication that Daniel Christianson, a semi-truck driver employed by Fox Valley Metal, is making cash payments to Sadoff's employee, Donald Krueger, who is a crane operator for Sadoff's, and unloads the scrap autos from Christianson's truck on Fridays. Kaufman reviewed the footage, which shows that Christianson gets out of his truck and meets with Krueger. Lasky indicated that video surveillance shows Krueger counting what appears to be cash, after being handed something by Christianson. Lasky indicated that the surveillance photos show interaction between Christianson and Krueger on April 24, 2015, May 1, 2015, May 8, 2015, and May 15, 2015, and also going back to the beginning of February, 2015.
6. Detective Lee Mikulec participated in a surveillance operation at Sadoff's on May 22, 2015. Mikulec observed Daniel Christianson drive into the Sadoff's property and approach Krueger, and appeared to hand him something. Mikulec interviewed Daniel Christianson. Christianson stated that he worked for Fox Valley Iron and Metal for 20 years.
7. Officer Travis Tuttle stopped the semi-truck, which Mikulec saw Christianson drive into Sadoff's on May 22, 2015, in the City of Fond du Lac, and identified the driver as Daniel Christianson.
8. Kaufman approached Krueger after the exchange took place between Krueger and Christianson on May 22, 2015. Kaufman searched Krueger and located \$1200 on his person. Krueger stated that on a weekly basis, he receives cash payments from Christianson, and that on May 22, 2015, Christianson paid him \$1200. Krueger acknowledged that the cash payments from Christianson were for Krueger accepting loads of scrap automobiles that were in excess of what they should have been, according to company rules from Sadoff's. Krueger acknowledged that the Fox Valley Iron and Metal loads would have consistently been overloaded with dirt, and that someone from Sadoff's, he, himself, would have to overlook the fact that the loads from Fox Valley were overweight. Krueger said he has known Christianson for 10 years. Krueger stated that he had been receiving payments for the last three years on a monthly to weekly basis from Christianson. He stated that the amounts varied and would typically be \$100 but the week of May 15, 2015, he received \$700.
9. Krueger stated that prior to May 22, 2015, he and Christianson talked about the excess weight of the loads that Fox Valley was bringing in and that he had told Christianson that the loads were getting too heavy, and that he told Christianson to keep the excess weight in the range of 2000 pounds per load. Krueger stated that Sadoff's previously had an excess weight tolerance of 500 pounds per load but that the loads he had been receiving payoffs for clearly exceeded the allowable limits set by Sadoff.. Krueger stated that when he received the loads from Fox Valley, that as a crane operator for Sadoff's, he would flip the scrap autos over to get excess dirt out that had been in the vehicles after the loads were weighed with the excess weight at Sadoff's . Krueger acknowledged receiving \$30,000 to \$35,000 in cash payouts in the past year alone, from Christianson. Krueger acknowledged that Sadoff's would be defrauded because of the weights paid out to Fox Valley, for the excess loads received from Fox Valley. Krueger said he thought Sadoff's was probably losing money. Krueger said he expected that the money he was receiving from Christianson came from Fox Valley. Krueger acknowledged that Sadoff's was losing money as a result of Krueger's actions, in not calling attention to the extra weight Krueger received from Fox Valley loads of scrap vehicles.

10. Krueger was re-interviewed on June 8, 2015 and provided additional information: Krueger stated that he had been receiving payoffs from Fox Valley Iron and Metal for at least 17 or 18 years.
11. Krueger stated that the payoffs began when a person named John Ashcraft had begun paying him cash in exchange for overlooking loads of scrap from Fox Valley Iron and Metal that had been loaded with extra weight in the form of dirt.
12. Krueger indicated that he had been getting additional money with a \$20 here or a \$50 and evolved. Krueger stated that Fox Valley wanted to push 3 loads a day or 15 a week. He said the payoffs increased to \$100 a week and then to \$200 a week. Krueger said initially the money was for getting Fox Valley and Iron Metal in and out efficiently and to provide them a 500 pound allowance on each load.
13. Krueger said the he did not dock Fox Valley for added weight from the overloaded scrap brought in to Sadoff's by Fox Valley even though company policy and rules would allow and in some instances require him to dock a company for bringing in loads of scrap with excess weight added.
14. Krueger said that he was receiving \$100 to \$200 a week and then it grew to \$300 a week to as much as \$800 to \$1000 a week. He indicated that he was paid based on the percentages of heavy loads. Krueger says that he was primarily paid through Daniel Christianson.
15. Krueger stated that he only talked to Sterling Kienbaum one time and that Sterling Kienbaum stated that the money he was trying to pay to Krueger may not have been all getting to Krueger. Krueger stated that the most he was ever paid by Christianson was \$2000 a week.
16. Christianson when interviewed did not dispute Krueger's account and acknowledged receiving money from Sterling Kienbaum to pay to Krueger for the excess loads. Christianson acknowledged that he was an employee of Fox Valley Metal and said that he had been paid \$300 a week by Sterling Kienbaum for delivering payoff money to Krueger for the overloaded scrap truckloads delivered to Sadoff's. Christian said that other scrap businesses received dirt in vehicles that were transported to other businesses but the only businesses that received payoffs was Sadoff's.
17. Detective Nick Hahn received documents from Sadoff Iron and Metal prepared by a forensic accountant to determine the length and amount of the loss sustained by Sadoff as a result of the theft scheme described in the above paragraphs.
18. Hahn reviewed the forensic accountant's report to determine the amount of the alleged thefts committed by Sterling Kienbaum through Fox Valley Iron and Metal, Krueger, Christianson, and possibly others against Sadoff. based on the fraudulent activities described above between April of 2009 and May of 2015.
19. The forensic accountant calculated each month's total sales at an average unit sales price per calendar year; subtracted the material costs from the normalized sales to calculate a gross profit in dollars and as a percentage of sales for each month between April 2009 and

May of 2015; performed the same calculation for the Period following May of 2015 and developed a gross profit percentage for the period following May of 2015; then compared these two gross profit percentages to calculate the gross profit percentage lost as a result of the overpayments made to the Fox Valley entities.

20. After calculating the gross profit percentage lost each month during the Damage Period, the forensic accountant multiplied the lost gross profit percentage by the proportion of Sadoff sales that were relevant to materials purchased from the Fox Valley Entities.
21. The forensic accountant totaled the amount paid to the Fox Valley Entities for the relevant materials during each month of the Damage Period. In order to determine the proportion of total relevant material costs that pertained to the Fox Valley Entities, the forensic accountant divided the total amount paid to the Fox Valley Entities in a given month by the total shredder material cost for that month.
22. The forensic accountant multiplied the proportion of material cost attributable to the Fox Valley Entities by the Normalized Sales for each month to calculate the shredder sales of relevant materials that correspond to the Fox Valley Entities' material purchases.
23. The forensic accountant multiplied the proportion of sales relevant to the Fox Valley Entities' by the lost gross profit percentage to calculate estimated dollars overpaid to the Fox Valley Entities during each month of the Damage Period. The table below quantifies the total estimated overpayments made to the Fox Valley Entities between April 2009 and May 2015.

**Damages By Year**

**Year Total Loss**

2009 \$ 740,325

2010 \$2,164,964

2011 \$3,465,950

2012 \$2,905,528

2013 \$2,732,040

2014 \$2,166,421

2015 \$149,267

**Total \$ 14,324,495**

24. Detectives Kaufman and Hahn spoke with Sadoff's Iron and Metal Sr. Vice President Bradford Lasky and learned that Sadoff's Iron and Metal did not consent to the theft overpayments to Fox Valley Iron and Metal as outlined in this criminal complaint.

Based on the foregoing, the complainant believes this complaint to be true and correct.

Subscribed and sworn to before me,  
and approved for filing on:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Complainant

\_\_\_\_\_  
District Attorney

State Bar No. \_\_\_\_\_