

PAI MOANA HAWAII LTD.
KAUAI VILLAGE SHOPPING CENTER

120596 97-09479
RECLASS. TO THEFT 2

FOLLOW UP REPORT

SYNOPSIS : Reported theft of monies by deception.

SCENE : Same as above.

SUSPECT : BURNS, MICHAEL JAMES JR. dob 090858
Kawaihau Sports Villa #D-202/821-9422

VICTIM : Same as above.

EVIDENCE : Refer to the copies of the checks issued.

RELATED REPORTS: 97-14850 through 97-14855 (Theft 2/Theft 1)
97-15075 through 97-15077 (Theft 2)

STATEMENT : BURNS, SEAN
4580 Hawthorne Pl.
Delta, British Columbia, Canada V4K3X1
(604) 946-9137

Said that Pai Moana Hawaii Ltd. is out of business. He and his uncle Peter RINGLAND owned the business. He wanted to get out of the business.

He had known Michael BURNS for about 3-4 months before Michael had made the charges on the business machine. He knew that Michael was in the wine business. He was told by Michael that Elliot STAREN wanted to buy wine from him (Michael) but Michael needed to use the business (Pai Moana Hawaii Ltd.) machine to run the credit card numbers. Michael entered the credit card numbers manually to make the charges.

Said that the checks were not issued until the credit card charges went through. When the charges were accepted then he issued the checks. Michael asked him to make the checks out to Nicole ADIMEY as he (Michael) was not able to cash the checks at the bank.

He later received noticed, after issuing the checks to Michael, that the charges were being disputed by the cardholder and that they were going to be charging back all the original charges. Michael told him that it was a mistake

and that he (michael) would straighten out the matter with STAREN.

STATEMENT

: BURNS, MICHAEL JAMES JR.

Stated that he had permission from Peter RINGLAND, who was in Tahiti at the time, to make the charges at the shop in Kapaa. He did run Elliot STAREN's credit card numbers through the machine at the pearl shop. He had used about five (5) or six (6) of STAREN's credit card numbers. He did it that way because that was the way STAREN wanted it. The total charges was about \$41,000.

Stated that he did deliver some of the wine that STAREN had ordered but that there was a delay on the other wines to be sent to STAREN. STAREN got upset and had back charged over \$20,000 of the original charges.

Said that he had been doing business with STAREN for ten (10) years and that this is the first time that STAREN has used a credit card as payment. STAREN wanted the charges spread between the different credit cards. In the past STAREN had paid by check or cash. He feels that STAREN does not know the procedures in paying with a credit card. He normally does business with cash or checks. He does not have a machine to run credit card numbers and that is why he used the machine at the Pai Moana shop.

Stated that he would ship the wine to STAREN but STAREN would have to reinstate the charges first. He does not want to ship the wine and not get paid for them. He feels that he is owed \$20,000 for the wine that was ordered. That this is not fraud or theft that it is all a mistake. He does not understand why he is being charged for fraud and theft. He is the victim.

STATEMENT

: STAREN, ELLIOT
7225 Grubby Thicket Way
Bethesda, MD 20817
Wide World of Wines
2201 Wisconsin Ave NW

Washington, DC 20007

Said that in the past he had known Michael BURNS as Michael ADIMEY. Only recently did he find out that Michael BURNS is his true name. If he had known that he was dealing with Michael BURNS he would never had done business with him. Michael BURNS had taken a lot of people for a lot of money.

He never authorized the charges on his credit card. He was using five (5) or six (6) credit cards to make purchases of wine but he never received the wine. He only recently received some wine from a distributor but he found out that the check Michael BURNS used in the purchase of the wine had bounced. The person receiving the check did not clear the check and released the wine. He heard that that person who sent off the wine without clearing the check got fired. He has the money for the wine and feels that he owes the distributor the money.

He never authorized any of the charges on his credit cards which states Pai Moana Hawaii Ltd.

FINDINGS

: On 072597 I was able to contact Elliot STAREN, who was the victim of the initial theft by Michael BURNS. STAREN stated the he had contacted BURNS through the internet whereby BURNS had an advertisement for rare and exotic wines. He ordered the wine with BURNS through the internet giving BURNS his credit card account number to make the purchase. STAREN did not received the wine that he ordered and that there were numerous charges on his account.

STAREN was hesitant to give greater detail in the case as he was skeptical speaking to me over the phone. I asked STAREN if I could have a copy of his credit card account statement showing all the charges made by BURNS at the Pai Moana shop. STAREN stated he would assist me but because we were on the phone and he could not identify me as a police office, STAREN requested that I fax him

a request on letter head asking for the document I am searching for.

On 072897 I faxed STAREN a request for his credit card billing statement and any other documents related to the purchase of wine and Michael BURNS.

On 072897 at about 0900 hrs. a check was made at Kawaihau Sports Villas #D-202 for the suspect, Michael BURNS. A Nicole ADIMEY answered the door who stated that Michael BURNS was in San Francisco and would not be returning for several days. I was asked into the apt. to explain why I was there looking for BURNS.

After explaining the theft investigation ADIMEY paged for BURNS to call her at the apt. ADIMEY received a call from BURNS and explained that I was there looking for him. I spoke to BURNS over the phone and told BURNS that he needed to meet with me to explain why he had made the charges on the STAREN account and took monies from the Pal Moana account. BURNS stated that it was all a mistake and that there is no criminal activity that was going on. I insisted that BURNS meet with me and bring in all documents to explain everything. BURNS stated that he is due to arrive on Kauai on 073097 late in the afternoon. A meeting was set for 073197 with BURNS at my office.

After speaking with BURNS I explained to ADIMEY that she is also under investigation because her name had shown up on six checks. The checks were made payable to Nicole ADIMEY. ADIMEY stated that she recalls cashing one check only because the bank would not cash the checks for BURNS as the checks were in large amounts. ADIMEY stated that she only had done what BURNS had asked her to do; cash the check. ADIMEY stated that she did not know what BURNS was doing in his wine business. That she did does not know what is going in with Michael, Sean BURNS and Elliot STAREN.

I advised ADIMEY that she would need to go to the Lihue station for processing. ADIMEY was allowed to ride in her personal vehicle to the station as he had her young son with her. There were sufficient probable cause to make the arrest as ADIMEY's name were on six check totalling over \$20,000. Although there were sufficient cause for arrest ADIMEY would be released pending further investigation.

On 072897 at 1030 hrs. ADIMEY was met at the Lihue station where she was placed under arrest. ADIMEY was advised of her constitutional rights at the booking room. ADIMEY requested an attorney present and did wish to speak to an attorney before making a statement. ADIMEY did not know who to call and stated that she cannot afford an attorney. I advised ADIMEY that she would not be questioned at that time until she confers with her attorney. ADIMEY was booked and released.

On 072997 I arrived at Pai Moana Pearls at the Kauai Village Shopping center in Waipouli. I met with Peter RINGLAND and Rick STEGER who are now operating the store since Sean BURNS left the store. RINGLAND the new owner, allowed me to look through and make copies of any documents which were left in boxes by Sean BURNS. Two envelopes were taken to the ISB offices to be examined and copied.

The records taken included cancelled checks of Pai Moana Hawaii Ltd. issued to Michael BURNS and Nicole ADIMEY. The cancelled checks, nine (9), totalled \$43,280.80. Six checks were cashed or deposited by Nicole ADIMEY and three checks were cashed or deposited by Michael BURNS.

RINGLAND had made a list of checks written to Michael BURNS and Nicole ADIMEY which showed a total of \$54,580.80. RINGLAND's list included charge back issued by the credit card company in which the Pai Moana Hawaii Ltd. business account was debited. RINGLAND's total was \$73,005.80 in losses from the business.

In speaking with Sean BURNS about why the checks were made out to Nicole ADIMEY, Sean BURNS stated that Michael BURNS had requested that the checks be made payable to Nicole ADIMEY as the bank would not allow him to cash the checks. Sean BURNS then made the check payable to Nicole ADIMEY.

Bank of Hawaii records show that both Michael BURNS and Nicole ADIMEY had accounts with said bank. In speaking with Marie BONILLA, operations supervisor, of Bank of Hawaii, Kapaa branch, she stated that they would not have cashed any checks from Michael BURNS as Michael BURNS had passed several large, bad checks at the bank and that BURNS had not cleared up the matter (Refer to 97-9455, 97-9458, and 97-09459 NWN1). BONILLA recalled the sizeable checks being brought to the bank. The bank did call Sean BURNS to see if he did authorize the checks. Sean BURNS did give them the clearance to cash the checks at the bank.

In further reviewing the records and documents gotten from Pai Moana Pearl it showed that there were, on occasion, numerous charges being made on Elliot STAREN's credit cards in a matter of minutes, or over consecutive days, totaling thousands of dollars. Not all of the credit card charge receipts were located in the boxes at the store, however, STAREN's billing statement show the numerous charges being made. On 031197, 031297, and 031597 consecutive charges for thousands of dollars were made. Eventually all of the charges were charged back to the Pai Moana Hawaii Ltd. store.

On 073197 Michael James BURNS Jr. was arrested at the Kauai Police Dept. headquarters building for theft. BURNS was advised on his constitutional rights via the rights form. BURNS understood his rights and chose to make a statement. BURNS did not wish to have an attorney present for the interview.

In questioning Michael BURNS of the wine delivery to STAREN, Michael BURNS stated that he had just

shipped the wine to STAREN. When confronted about his check bouncing at the wine distributors, Michael BURNS stated that he knew that the check bounced but had already taken care of the matter and had paid the distributor.

Michael BURNS provided me with four (4) sheets of paper showing the shipment of wine to Elliot STAREN at 2201 Wisconsin Ave, NW, Washington, DC 20002. This shipment to STAREN was made one day after Nicole ADIMEY, Michael BURNS' girlfriend, was arrested for theft in the same case. It appears that the shipment was made to show that it was a business deal and not a theft. However, according to STAREN, the check Michael BURNS sent to the distributor had bounced.

On 072997 a letter was faxed to Elliot STAREN of Maryland asking for his credit card billing statements and any other documents related to the sale/purchase of wine from Michael BURNS. On 073197 a fax was received from STAREN which included all of his credit card billing statement. The statements shows numerous charges made on all cards by Pai Moana Hawaii Ltd. STAREN stated that he did not authorized the charges by Pai Moana Hawaii Ltd. Several of the charges are followed by checks being issued to Nicole ADIMEY or Michael BURNS.

In speaking with Peter RINGLAND, the new owner of Pai Moana Pearls, he stated that it was illegal for Michael BURNS to conduct his sale of wine with through Pai Moana Hawaii Ltd. Also that the shopping center takes a percentage of the sale run through the store. With Michael BURNS using the business for his wine sales the store would show higher sales than what it would have been.

Based on the evidence and statements of the investigation the theft occurred over a period of several months were by Michael BURNS knowingly and intentionally used several credit card numbers, without the authority of the credit cardholder, to make fraudulent charges in exchange receiving cash payments of over \$300 from the charges thereby committing the offense

97-08479
THEFT 2

of Theft in the Second Degree. And with the total sum of all the theft incurred, an amount of over \$20,000, committing the offense of Theft in the First Degree.

DISPOSITION : Arrested and Booked.

SUBMITTED BY : 
DET. ALE QUIBILAN K-65

APPROVED BY : _____
LT. WILLIAM CHING JR. K-24

ALL HAWAII BAIL BONDS

CHRISTOPHER S. ZBICIAK
1135 MAKAWAO AVENUE, SUITE 103-193
MAKAWAO, HI 96768
1-800-327-4274
FAX 1-888-472-7922

5TH CIRCUIT COURT
STATE OF HAWAII
FILED

'97 AUG 18 AM 11:55

Mildred Ah-Hee
MILDRED AH-HEE
CLERK

BAIL BOND

CIRCUIT ~~OR DISTRICT~~ COURT OF THE STATE OF HAWAII

Police Report Number(s) : _____ OR Criminal No. 97-0181

DEFENDANT MICHAEL J. BURNS, DOB: _____, having been admitted
to bail and ordered to appear in court in the State of Hawaii.

KNOW ALL MEN BY THESE PRESENTS:

THAT THE UNDERSIGNED SURETY, OR SURETIES, AS SURETY, HEREBY UNDERTAKE THAT THE
SAID DEFENDANT WILL APPEAR AND ANSWER ALL CHARGES MENTIONED IN WHATEVER COURT IT
MAY BE PROSECUTED WITHIN THE STATE OF HAWAII, AND WILL APPEAR FOR JUDGEMENT, AND
RENDER SELF IN EXECUTION THEREOF, OR FAILING TO PERFORM EITHER OF THESE CONDITIONS
WILL PAY TO THE STATE OF HAWAII, AS PROVIDED IN SECTIONS 804-51, HAWAII REVISED
STATUTES.

THE SUM OF, TWELVE THOUSAND dollars (\$ 12,000.00)

BOND VALID ONLY FOR THISE CHARGES LISTED UNDER THE ABOVE REPORT AND OR CRIMINAL
NUMBERS AS OF THE DATE STATED HEREIN. BOND IS CANCELLED AND SURETY EXONERATED
UPON SENTENCING, DAG PLEA, OR DISMISSAL.

DATED THIS 18TH DAY OF Aug. 1997

BY: Carol Gerns
(AGENT)

WINE HOUSE LIMITED
285 BRYANT STREET
SAN FRANCISCO, CA 94107
PH 415-485-8488 FAX 415-485-4720

INVOICE

415/495-8486

Account #

INVOICE NO 32819

INVOICE DATE 07/29/97

PAGE 1

WINE HOUSE
1500 PENNSIN AVE, N.W.
WASHINGTON, DC 20002-
A/R:

SHIP

TO

DELIVERING DELIVERY VIA SERVICE BY AIR. FREIGHT COLLECT
OUT OF STATE NO SALES TAX

ORDER	SHIP	DESCRIPTION	PRICE	AMOUNT
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120	120 94 MOUTON ROTHSCHILD A471			
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80.75

9,690.00

Total 9,690.00

Received 0.00

Balance 9,690.00

Terms: Net PRIOR TO SHIPMENT *9/20/97*
ON ACCOUNT

Sales Code: 1
Time: 15:17:22

ANY NEW TAXES OR DUTIES IMPOSED ON STILL WINE WILL BE INVOICED UPON ARRIVAL

WINE HOUSE LIMITED