

Search Warrant Information

The following pages contain excerpts from the search warrant that was served upon the offices of New River Management and Development, LLC, Southern Property Management, and Lloyd Kapp and Kapp Investment Management on August 31, 2005. These firms were located in a single office suite in Columbia, South Carolina. Among the items to be seized were any and all financial records of the Catawba Indian Nation Economic Development Accounts and related personnel records. A copy of the inventory of the items seized is also provided in this document.

This document was reconstructed into the PDF format from a photocopy of the original documents. Therefore, the appearance of this document is similar but not identical to the originals due to minor differences in font properties. Throughout this document, hand-written entries or signatures on the original document are indicated by blue letters.

AO 106 (Rev. 7/87) Affidavit for Search Warrant

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

In the Matter of the Search of

**APPLICATION AND AFFIDAVIT
FOR SEARCH WARRANT**

2711 Middleburg Drive, Suite 101,
Columbia, South Carolina

CASE NUMBER [3:05cr 00938](#)

I, Amylynn Miller, being duly sworn depose and say: I am a Special Agent of the Federal Bureau of Investigation and have reason to believe that on the person of or on the property or premises known as

2711 Middleburg Drive, Suite 101, Columbia, South Carolina, more fully described in **See Attachment A.**

there is now concealed a certain person or property, namely **See Attachment C.**

which is evidence, fruits, and instrumentalities concerning a violation of ~~Title 18, United States Code, Sections 2 & 1001~~, and Title 2, United States Code, Sections 437g(d)(1)(D) & 441a and 441f.

The facts to support the issuance of a Search Warrant are as follows:
See Attachment B (affidavit).

Continued on the attached sheet and made part hereof. Yes No

Signature of Affiant

Sworn to before me, and subscribed in my presence

[August 30, 2005](#) at [3:50 PM](#)

Date

[/signed/](#)

BRISTOW MARCHANT
UNITED STATES MAGISTRATE JUDGE

AO 93 (Rev. 5/85) Search Warrant

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

In the Matter of the Search of

SEARCH WARRANT

2711 Middleburg Drive, Suite 101
Columbia, South Carolina

Criminal Number 3:05cr 938

To: Amylynn Miller, Special Agent, Federal Bureau of Investigation, and any other Authorized Officer of the United States:

Affidavit(s) having been made before me by Amylynn Miller, who has reason to believe that on the premises known as 2711 Middleburg Drive, Suite 101, Columbia, South Carolina, in the District of South Carolina, there is now concealed a certain person or property, namely, the items listed in Attachment C, which is attached hereto and incorporated herein by reference as if set forth fully herein, I am satisfied that the affidavit(s) and any recorded testimony establish probable cause to believe that the person or property so described is now concealed on the property above-described and establish grounds for the issuance of this warrant.

YOU ARE HEREBY COMMANDED to search on or before Sept 9, 2005 (not to exceed 10 days) the property named above for the person or property specified serving this warrant and making the search in the daytime - 6:00 A.M. to 10:00 P.M. and if the person or property be found there to seize same, leaving a copy of this warrant and receipt for the person or property taken, and prepare a written inventory of the person or property seized and promptly return this warrant to Bristow Marchant, United States Magistrate Judge, as required by law.

Nighttime search specifically authorized: [] Yes [X] No

Issued at 3:50 p.m. this 30 day of August, 2005 at Columbia, South Carolina.

/ signed /

Bristow Marchant
United States Magistrate Judge

RETURN		
Date Warrant Received <p style="text-align: center;">08 / 30 / 2005</p>	Date and Time Warrant Executed <p style="text-align: center;">08 / 31 / 2005 9 am</p>	Copy of Warrant and Receipt for Items Left With <p style="text-align: center;">bookkeeper's desk</p>
Inventory Made in the Presence of <p style="text-align: center;">_____</p>		
Inventory of Person or Property Taken Pursuant to the Warrant <p style="text-align: center;">See attached</p>		
CERTIFICATION		
I swear that this inventory is a true and detailed account of the person or property taken by me on the warrant. <p style="text-align: center;">/ signed Amylynn Miller / _____</p>		
Subscribed, sworn to and returned before me this date. <p style="text-align: center;">_____</p>		
U.S. Judge or Magistrate Judge	Date	9 / 2 / 05

ATTACHMENT A

DESCRIPTION OF PREMISES TO BE SEARCHED

The offices of New River Management and Development, LLC, and Southern Property Management and of Lloyd Kapp and Kapp Investment Management, located at 2711 Middleburg Drive, Suite 101, Columbia, South Carolina.

The premises are further described as follows: A three-story building located in an office park. The front of the office building is tan color brick with an off-white concrete border. The building has a black sign with white letters located on the southwest side of the building that reads 2711 Middleburg. To access Suite 101, one must go to the west entrance adjacent to the parking lot on the left side of the building. After entering the glass doors, one must turn right and walk straight ahead to the entrance Suite to 101. A sign on the glass door for Suite 101 reads, S.P.M., Inc., New River Management and Development Co., in white letters.

To reach this address from Forest Drive and US-1/N. Milwood Avenue, turn right on Forest Drive from US-1 North, travel 0.6 miles on Forest Drive and turn left onto Devonshire Drive, travel 0.1 miles on Devonshire Drive and turn right on Middleburg Drive, travel 0.1 miles and 2711 Middleburg Drive is located on the left.

ATTACHMENT C

LIST OF ITEMS TO BE SEIZED

Records to be seized are those dated January, 2000, to the present and as defined in the final paragraph:

- (1) Records relating to contributions of anything of value to political candidates or organizations, and of reimbursements or payments, directly or indirectly, by any person or entity, to any individual or entity, for making or funding any such contribution, including ledgers, books, accountings, checks, statements, receipts, correspondence;
- (2) Records relating to storage of records of Catawba Indian Nation Economic Development, New River Management and Development, Southern Property Management and Kapp Investment Management other than at 2711 Middleburg Drive, Suite 101, Columbia, South Carolina, including rental agreements, checks, receipts, access codes, access combinations, keys, proximity cards, padlocks, magnetic swipe cards and correspondence;
- (3) Records relating to the regulations, laws, and limitations on political contributions.
- (4) Any and all bank account records for the Catawba Indian Nation Economic Development Accounts, New River Management and Development, Southern Property Management, and Kapp Investment Management, including all account statements, cancelled checks, deposit slips, and retained copies of deposit items, records of wire transfers both into and out of the bank accounts, checkbooks, check registers, deposit receipts, records of cashiers checks or money orders purchased from funds, and log books of wire transfers;
- (5) Records of receipt of money by New River Management and Development or the Catawba Indian Nation, including any records of the receipt by the above entities of funds by check, cash, money order, cashier's check, and wire transfers;
- (6) Any and all correspondence between New River Management and Development, and the Catawba Indian Nation relating to financial transactions, opening bank accounts or establishing corporations or other legal entities;
- (7) All personnel records related to New River Management and Development or Catawba Indian Nation, including, names, addresses, telephone numbers, social security numbers and any reference to employees' position and job description and any correspondence;
- (8) Any and all computers or electronic data which may be, or are used to store records of Catawba Indian Nation Economic Development, New River Management, ...

enforcement laboratory for review. The computer equipment and storage devices will be reviewed by appropriately trained personnel in order to extract and seize any data that falls within the list of items to be seized set forth herein.

In searching the data, the computer personnel may examine all of the data contained in the computer equipment and storage devices to view their precise contents and determine whether the data falls within the items to be seized as set forth herein. In addition, the computer personnel may search for and attempt to recover "deleted," "hidden" or encrypted data to determine whether the data falls within the list of items to be seized as set forth herein.

If the computer personnel determine that the data does not fall within any of the items to be seized pursuant to this warrant, or is not otherwise legally seized, the government will return these items within a reasonable period of time not to exceed 60 days from the date of seizure unless further authorization is obtained from the Court.

DEFINITIONS

As used throughout this list of items to be seized, "records" and materials include all of the foregoing items of evidence in whatever form and by whatever means such records, documents, or materials, their drafts, or their modifications may have been created or stored, including (but not limited to) any handmade form (such as writing, drawing, painting, with any implement on any surface, directly or indirectly); any photographic form (such as microfilm, microfiche, prints, negatives, videotapes, motion pictures, photocopies); any mechanical form, (such as phonograph records, printing, or typing); any electrical, electronic, or magnetic form (such as tape recordings, cassettes, compact discs, or any information on an electronic or magnetic storage device, such as floppy diskettes, hard disks, backup tapes, CD-ROMs, optical discs, printer buffers, smart cards, memory calculators, electronic dialers, Bernoulli drives, or electronic notebooks, as well as printouts or readouts from any magnetic storage device).

FINAL INVENTORY

ITEMS SEIZED ON 8/31/2005

2711 Middleburg Drive, Suite 101 Columbia SC 29204-2413

56C-WF-230167 CASE AGENT SAs A. Hawkins & A. Miller

SEIZING AGENT SA Frank D'Amico

ITEM #	BOX #	ROOM	CONTAINER	DESCRIPTION
1	1	B	through the entire office	Various financial and business records.
2	24	B	through the entire office	Computer disk, imation 2HD IBM
3	1	C	Bookshelf and top of credenza	Computer storage media - 6 cds 108 floppy disks, 13 - zip disks
4	3	C	File cabinet	Misc documents R/T Personnel - Resumes
5	4	D	Desk and Credenza	Financial legal, and business documents; documentation of political contributors.
6	5	C	Bookshelf	Bingo - financials 2002- 2004
7	24	C	Black box on floor	Financial Statements - New River Mgmt. 2002 + other misc financial docs.
8	8	C	Box on the floor	Payroll - New River Mgmt.
9	7	E	On built in shelving	New River 2002 Bank statements
10	8	C	Floor boxes	Misc financial documents 2002- 2004, payroll 2003
11	9	C	Box on floor	2002 Bingo Imprest account.
12	24	E	On desk	4 CD's Labeled "Pedora 3"
13	10	F	On the floor	Bingo - related financial information (Catawba)
14	11	F	On the Floor	Misc — financial business, tax documents
15	12	E	On desk	Financial and Business documents relating to New River and Catawba Indian Nation
16	13	C	Box on floor	W2s, Bank records..
17	24	L		Misc - documents.
18	14	F	In storage boxes	Various financial and business docs for CIN, New River and
19	15	I	On the file cabinet	Bank of America Statements "2001" for CIN Bingo acct.
20	16	I	On the file cabinet	Bank of America Statement "2002" for CIN Bingo acct.
21	17	I	On the file cabinet	Bank of America "2003" for CIN Bingo acct.

<i>ITEM #</i>	<i>BOX #</i>	<i>ROOM</i>	<i>CONTAINER</i>	<i>DESCRIPTION</i>
22	18	I	On the file cabinet	Bank of America statements "2001" for CIN Bingo acct.
23	19	I	On the file cabinet	Bank of America account on cds "2000 thru 2003 for CIN Bingo account.
24	20	I	File cabinet & box on the table	Financial business political campaign contribution documents
25	21	J		Various business and financial records.
26	22	J		Misc documents for CIN.
27	23	K	File cabinet	Employee/ personnel files, Shareholder distributions financial stmts; deposit tickets CIN financial docs, CIN Board minutes 2005
28	24	B, H, & K		Forensic copies of the computer hard drives.
29	24	C, D, E, L		Forensic copies of the computer hard drives.

RECEIVED BY: _____

RECEIVED FROM: _____

IN THE DISTRICT COURT OF THE UNITED STATES
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

IN THE MATTER OF THE SEARCH OF) CASE NO.: 3:05CR938
)
)
2711 MIDDLEBURG DRIVE, SUITE 101)
COLUMBIA, SC) **ORDER**

This matter comes before the Court on motion of the United States to file the affidavit of the search in this case under seal. The purpose of the government's request is to protect the identity of the informants, for their safety, and so as not to jeopardize the ongoing investigation.

Based on the foregoing, the court finds that the interest of justice are best served by filing the affidavit of the search warrant under seal. It is therefore,

ORDERED that the affidavit of the search warrant be filed under seal.

AND IT IS SO ORDERED.

/ Signed /

UNITED STATES MAGISTRATE JUDGE

Columbia, South Carolina

August 31, 2005

I SO MOVE:

/ Signed /

Eileen Gleason
Louisiana Bar Roll #11976
Trial Attorney
U.S. Department of Justice
Public Integrity Section
1400 New York Avenue, Suite 12100
Washington, D.C. 20005
Telephone: (202) 305-8294

September 2, 2005. See Docket No. 3:05-cr-00938. *Cf. Media General Operations, Inc.*, 417 F.3d at 429-430 [“Because the sealing order was made public upon the execution of the search warrant and petitioners were then given an opportunity to object to the sealing of the affidavits, the notice requirement was satisfied”].¹

Pursuant to the order of the court, upon filing, all documents related to the cited search warrant should have been available for the public except for the affidavit. However, the Court has been advised by the Clerk’s office that the search warrant itself was not available to the public (with instead only an entry that the search warrant had been returned being reflected in the docket), nor was the application available to the public, as the Clerk’s office considered the application part of the affidavit itself (the title of that combined document being “Application and Affidavit for Search Warrant”). The Court has now addressed this matter with the Clerk’s office and given instructions that, henceforth, copies of the search warrant itself as well as the application page for the affidavit together with any associated documents should be available to the public unless there is an order specifically sealing those documents.² See *In re Search of Eye Care Physicians of America*, 910 F.Supp. 414, 421-422 (N.D.Ill. 1996); *cf. Media General Operations, Inc.*, 417 F.3d at 432-433. These documents should therefore be made available to the public in this case.³

Movant’s motion to intervene is granted. Movant seeks in its motion to have the

¹Movant argues that this Court should have set forth more specific reasons for issuing its pre-search sealing order. In the context of a search warrant, however, Movant’s argument is without merit. *Media General Operations, Inc.*, 417 F.3d at 430-431.

²Counsel for the Government is referred to instructions pertaining to Public Access to Documents in Electronic Case Files. See United States District Court for the District of South Carolina website at <http://207.41.17.34/Filing/publicAccess.asp>.

³The Government had previously filed a motion to seal the inventory attached to the return. However, that motion has now been withdrawn.

