

APPROVED: _____
BRENDAN R. MCGUIRE / ANJAN SAHNI
Assistant United States Attorneys

BEFORE: HONORABLE THEODORE H. KATZ
United States Magistrate Judge
Southern District of New York

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UNITED STATES OF AMERICA :
- v - : **SEALED COMPLAINT**

VIKTOR BOUT, : Violations of
a/k/a "Boris," : Title 18, United
a/k/a "Victor Anatoliyevich Bout," : States Code, Sections
a/k/a "Victor But," : 2339B & 3238
a/k/a "Viktor Budd," :
a/k/a "Viktor Butt," :
a/k/a "Viktor Bulakin," :
a/k/a "Vadim Markovich Aminov," and
ANDREW SMULIAN, :
Defendants. :

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SOUTHERN DISTRICT OF NEW YORK, ss.:

ROBERT F. ZACHARIASIEWICZ, being duly sworn, deposes and says that he is a Special Agent of the Drug Enforcement Administration ("DEA"), and charges as follows:

**COUNT ONE: CONSPIRACY TO PROVIDE
MATERIAL SUPPORT TO A FOREIGN TERRORIST ORGANIZATION**

1. From in or about November 2007 up to and including in or about February 2008, in an offense that occurred in and affected interstate and foreign commerce, VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," and ANDREW SMULIAN, the defendants, who will be first brought to and arrested in the Southern District of New York, and others known and unknown, unlawfully and knowingly did combine, conspire, confederate and agree together and with each other to provide "material support or

resources," as that term is defined in Title 18, United States Code, Section 2339A(b), to a foreign terrorist organization, to wit, Fuerzas Armadas Revolucionarias de Colombia+Ejército del Pueblo ("the FARC"), which was designated by the United States Secretary of State as a foreign terrorist organization in October 1997, pursuant to Section 219 of the Immigration and Nationality Act, was redesignated as such on October 2, 2003, and is currently designated as such, as of the date of filing of this Complaint.

2. It was a part and an object of the conspiracy that VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," and ANDREW SMULIAN, the defendants, and others known and unknown, agreed to sell to the FARC millions of dollars worth of weapons for the FARC to use to protect their cocaine-trafficking business and to attack United States interests in Colombia, knowing that the FARC has engaged and engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act), and that the FARC has engaged and engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989), in violation of Title 18, United States Code, Section 2339B.

(Title 18, United States Code,
Sections 2339B(a)(1), (d)(1)(C), (d)(1)(E) and 3238.)

The bases for my knowledge and the foregoing charges are as follows:

3. I am a DEA agent with 10 years' experience. I have participated in the investigation of this matter, and have spoken with other individuals, including federal agents, other law enforcement officials, and other witnesses. When I rely on statements made by others, such statements are related in sum and substance unless otherwise indicated. Moreover, because this affidavit is submitted for the limited purpose of establishing probable cause supporting the arrests of the defendants, I have not set forth each and every fact learned during the course of this investigation. Indeed, I have omitted mention of some of the facts known about the defendants in order to protect sensitive sources of information.

Fuerzas Armadas Revolucionarias de Colombia (the FARC)

4. During the course of my investigation, I have become familiar with the Fuerzas Armadas Revolucionarias de Colombia (the FARC) through a variety of sources, including, but not limited to, DEA investigations of the FARC, and persons who have been associated with the FARC. From these sources, I have learned that the FARC is an international terrorist organization. Specifically, I have learned the following:

a. From in or about 1964 until on or about the date of filing of this

Complaint, the FARC has been and is an international terrorist group dedicated to the violent overthrow of the democratically elected Government of Colombia. Since its inception, while continuing to engage in bombings, massacres, kidnappings, and other acts of violence within Colombia, the FARC has also evolved into the world's largest supplier of cocaine.

b. In October 1997, the United States Secretary of State designated the FARC as a foreign terrorist organization pursuant to Section 219 of the Immigration and Nationality Act. As of the date of filing of this Complaint, the FARC is currently designated as a foreign terrorist organization. The European Union also has designated the FARC as a terrorist organization.

c. During at least the five years prior to the date of filing of this Complaint, the FARC has directed violent acts against United States persons and commercial and property interests in foreign jurisdictions, including, but not limited to, Colombia. In order to protect its financial interests in the cocaine trade, the FARC leadership ordered its members to take counter measures against the Government of Colombia's cocaine fumigation campaign, including, among other actions: attempting to shoot down fumigation aircraft; forcing members and supporters to publicly rally against fumigation; and attacking Colombian infrastructure. Having recognized that the United States has contributed significantly to Colombian fumigation efforts, the FARC leadership ordered FARC members to kidnap and murder United States citizens and to attack United States interests in order to dissuade the United States from continuing its efforts to fumigate and disrupt the FARC's cocaine and cocaine paste manufacturing and distribution activities.

d. The FARC's violent acts directed against the United States and United States interests have included: (1) the murder of United States nationals; (2) the kidnapping of United States nationals, and (3) the bombing of a restaurant in Bogota, Colombia, frequented by United States nationals.

Background

5. In 2007, the DEA directed a confidential source ("CS-1") to make contact with ANDREW SMULIAN, the defendant, who CS-1 knew to be an associate of VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a Vadim Markovich Aminov, the defendant. CS-1 is a paid informant of the DEA who has provided reliable information to the DEA during this investigation. Much of the information supplied by CS-1 in this investigation has been independently corroborated by meetings and recordings that have been surveilled by and reviewed by agents of the DEA. CS-1 and SMULIAN have a prior association with BOUT

dating back to the mid-1990s. At that time, BOUT requested SMULIAN and CS-1 to fly from Bulgaria over Chechnya, and to air drop crates and boxes over Chechnya. While never explicitly told what was inside the crates, CS-1 understood that the crates contained arms shipments. Neither CS-1 nor SMULIAN agreed to this request. At or around this time, CS-1 also flew with BOUT to Dubai from Africa. Since that time, CS-1 has had occasional contact with BOUT. CS-1 also knows that BOUT is engaged in the international arms trafficking business. According to CS-1, SMULIAN, whom CS-1 has known for several years, has an ongoing business relationship with BOUT, and once served as an advisor for one of BOUT ' s airlines.

6. In or about November 2007, acting at the direction of the DEA, CS-1 sent an e-mail to ANDREW SMULIAN, the defendant, asking SMULIAN to convey to VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a Vadim Markovich Aminov," the defendant, that he (CS-1) had a business proposition for BOUT. Shortly thereafter, SMULIAN told CS-1 that BOUT was interested, and that CS-1 should set up a meeting to discuss the venture. At the direction of the DEA, CS-1 arranged to meet SMULIAN in Curacao, Netherlands Antilles, where CS-1 would introduce SMULIAN to the principals interested in purchasing the arms.

7. Leading up to the meeting in Curacao, CS-1 and ANDREW SMULIAN, the defendant, exchanged e-mail correspondence. For example, on or about December 3, 2007, SMULIAN e-mailed CS-1, stating: "Spoke to Boris, and anything is possible with farming equipment. I just need to pass some stuff off to him ref what we are doing here which will take me up to Thursday and then I will see how we can operate and we can make some plan an[d] send him. I don ' t think he can move stuff around, but it may be that he can get his hands on items which you require." CS-1 understood "Boris" to refer to VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant, and "farming equipment" to refer to arms shipments.

8. On or about November 25, 2007, ANDREW SMULIAN, the defendant, sent an e-mail to CS-1, stating the following:

Our man has been made persona non-G - for the world through the UN. The supporting action through the US, Europe, and Switzerland. All assets cash and kind frozen, total value is around 6 Bn USD, and of course no ability to journey anywhere other than home territories. Listed on the US black list. . . . All access and communications monitered [sic], and therefore we should not make use of any form of contact, and all existing and past comms are electronically interogated, and copied. My new number is OK, since

I never call him on that and it's a new phone. Also I used an email which I will leave and it will close automatically after 45 days on non usage. (Anyway always used it from different IT cafes.)
Anyway we will put together a proposal for some business and see what happens."

CS-1 understood the reference to "our man" to relate to VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant. Furthermore, I believe SMULIAN's statement that "our man['s]" "assets cash and kind" have been "frozen" refers to the placement of BOUT on the Specially Designated Nationals ("SDN") list in or about October 2006 by the United States Office of Foreign Assets Control ("OFAC"). Based on my training and experience, I know that OFAC imposes economic sanctions against parties conducting business with any individual or entity placed on the SDN list.

Meetings in Curacao, Netherlands Antilles

9. During the week of January 7, 2008, CS-1, at the direction of the DEA, met with ANDREW SMULIAN, the defendant, in Curacao. During their meetings in Curacao, CS-1 introduced two other DEA confidential sources ("CS-2" and "CS-3") to SMULIAN. CS-2 is a paid informant who has worked with the DEA for approximately 9 years. CS-3 is also a paid informant who has worked with the DEA for over a year. Both CS-2 and CS-3 have provided the DEA with reliable information. During a recorded undercover meeting in a hotel room in Curacao, CS-2 and CS-3 introduced themselves to SMULIAN as representatives of the FARC. CS-2 and CS-3 explained to SMULIAN that they were interested in purchasing a variety of different military-grade arms, including surface-to-air missiles. As a show of their good faith, they provided SMULIAN with \$5,000 in cash as compensation for his travel to meet with them.

10. While in Curacao, CS-1 provided ANDREW SMULIAN, the defendant, with a new cellphone ("Cellphone 1"), which CS-1 explained was secure and would be safe to use. At the request of the DEA, authorities in Curacao performed judicially authorized intercepts of wire communications occurring over Cellphone 1, and subsequently provided the recordings of these communications to the DEA. These recordings, which I have reviewed, contain several conversations between SMULIAN and another individual, whom SMULIAN identified to CS-1 by name and as an associate of SMULIAN's ("CC-1"). SMULIAN told CS-1 that CC-1, who recently visited VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant, in Russia to discuss the provision of medical supplies in Africa, is able to relay messages between BOUT and SMULIAN. Having reviewed these recordings, I have learned the following:

a. On or about January 11, 2008, SMULIAN, who was in Curacao at the time, had a recorded telephone conversation with CC-1, in which SMULIAN stated that he would be going to Copenhagen, Denmark in three days to apply for a visa. SMULIAN had separately told CS-1 that, in order to meet with BOUT in Russia, he (SMULIAN) would have to apply for a visa, and that Copenhagen is a suitable location from which to apply. Later in the conversation, CC-1 stated that a picture of the passport is on e-mail, which SMULIAN confirmed. Based on my training and experience, my involvement in this investigation, and the DEA 's conferral with CS-1, I believe that CC-1 was referring to assistance that he would provide to SMULIAN in obtaining a visa to travel to Russia to meet with BOUT.

b. On or about January 12, 2008, SMULIAN had another recorded telephone conversation with CC-1. In this conversation, SMULIAN explained that he had tried to call "him" , whom I believe refers to BOUT , but was unable to reach him. CC-1 replied that he , whom I believe refers to BOUT , has a new phone number. SMULIAN then told CC-1 to tell him , whom I believe refers to BOUT , that the reason they are going to that place (which I believe refers to Copenhagen) is because that is where we have part of the funding. CC-1 replied that he would pass along the information and e-mail SMULIAN the number on which "he" , whom I believe refers to BOUT , is available.

c. On or about January 13, 2008, SMULIAN had another recorded telephone conversation with CC-1. CC-1 stated that he "spoke to him" , whom I believe refers to BOUT , and sent him two or three e-mails that he (again referring to BOUT) is reviewing. SMULIAN replied that he sent him (referring to BOUT) one as well, and explained the timetable of the meetings with CS-1.

d. On or about January 13, 2008, SMULIAN had another recorded telephone conversation with CC-1. CC-1 indicated that he had received an e-mail stating "better to confirm the list." Based on my training and experience, my involvement in this investigation, and the DEA 's conferral with CS-1, I believe that CC-1 was referring to an e-mail from BOUT requesting confirmation of the arms that CS-1 and his associates wanted to purchase. SMULIAN then stated to CC-1, "standard ground stuff . . . standard ground equipment . . . must be good stuff . . . no rubbish." Based on my training and experience, my involvement in this investigation, and the DEA 's conferral with CS-1, I believe that SMULIAN 's statement about "standard ground equipment" was a reference to the military-grade arms that CS-2 and CS-3 had discussed with SMULIAN and requested to purchase.

e. On or about January 13, 2008, SMULIAN had another recorded telephone conversation with CC-1. CC-1 stated that he had just received a message from "our friend," whom I believe refers to BOUT. CC-1 then told SMULIAN that he would be able to get a visa from the travel agent. SMULIAN then asked whether "he" , whom I believe refers to

BOUT , indicated what sort of visa to get, and CC-1 indicated a tourist visa. SMULIAN and CC-1 then discussed hotel arrangements in Russia. Based on my training and experience, my involvement in this investigation, and the DEA ' s conferral with CS-1, I believe that in this conversation, CC-1 was advising SMULIAN how to get to the meeting location in Russia where SMULIAN would meet with BOUT to discuss the arms deal proposed by CS-2 and CS-3 in Curacao.

11. Records maintained by the email service provider of the email account used by ANDREW SMULIAN, the defendant, which I have discussed with another DEA agent, indicate that SMULIAN's email account was accessed three times from a computer located in Moscow, Russia on or about January 21, 2008. I believe that these records confirm that SMULIAN traveled to Russia to meet with VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant, about the proposed weapons transaction after the meetings in Curacao as he told CS-1 he would. This belief is confirmed by subsequent events in the investigation, described below in paragraph 12.

Meetings in Copenhagen, Denmark

12. On or about January 22, 2008, at the direction of the DEA, CS-1 met with ANDREW SMULIAN, the defendant, in Copenhagen, Denmark to discuss SMULIAN ' s recent meeting in Russia with VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant, regarding the weapons transaction. According to SMULIAN, BOUT told him to set up a meeting involving SMULIAN, CS-2, and one of BOUT ' s representatives to discuss the weapons transaction. BOUT told SMULIAN to be very cautious, and instructed SMULIAN to get rid of all of his cell phones, SIM cards, receipts, and any other items that would indicate where he had been and with whom he had been meeting. In addition, BOUT advised SMULIAN that he was willing to launder money on behalf of CS-2's organization (the FARC) at a cost of 40%. According to SMULIAN, BOUT further stated that he could provide the FARC with more clandestine types of assistance because "any communists are our friends."

13. On or about January 23, 2008, at the direction of the DEA, CS-1 and CS-2 met with ANDREW SMULIAN, the defendant, in Copenhagen. During these meetings, which were recorded, SMULIAN, CS-1 and CS-2 discussed potential locations for a meeting with VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant. At one point during the meeting, SMULIAN pulled CS-2 aside and told him that the individual they were talking about meeting was BOUT. He then spelled BOUT ' s last name for CS-2, and advised him that BOUT was known as the "merchant of

death" and that "the whole world was after him."¹ SMULIAN also indicated that BOUT had shown SMULIAN photographs of all the senior officers in the FARC and asked SMULIAN to identify CS-2 and CS-3 from the photographs. SMULIAN also informed CS-1 and CS-2 that there were "100 pieces" available immediately. CS-1 and CS-2 understood SMULIAN to be referring to the surface-to-air missiles they had previously requested. In addition, SMULIAN advised CS-1 and CS-2 that there was already a delivery system in place for the weapons and that the weapons could be air dropped with great accuracy. SMULIAN also indicated that payment for the weapons could be picked up directly from the FARC because there is an empty flight that flies near FARC controlled territory every two days.

14. During one of the meetings with CS-1 and CS-2 on January 23, 2008, ANDREW SMULIAN, the defendant, received a telephone call. During the call, SMULIAN explained that he was meeting with CS-1 and CS-2 about speaking with "our friend" directly, and that their negotiations were continuing. Based on my training and experience, my involvement in this investigation, and the DEA's conferral with CS-1 and CS-2, I believe that SMULIAN was speaking with CC-1, and "our friend" was a reference to VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant. Later in the meeting, SMULIAN advised CS-1 and CS-2 that CC-1 had told BOUT that SMULIAN was meeting with CS-1 and CS-2 that day.

Meetings in Bucharest, Romania

¹ I believe that SMULIAN's description of BOUT as the "merchant of death" refers to a 2005 book about BOUT entitled The Merchant of Death: Money, Guns, Planes and the Man Who Makes War Possible.

15. On or about January 26, 2008, at the direction of the DEA, CS-1 traveled with ANDREW SMULIAN, the defendant, to Bucharest, Romania, where CS-2 and CS-3 were waiting. On or about that same day, SMULIAN, CS-1, CS-2, and CS-3 met to continue their discussion about meeting with VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant. During the meeting, which was recorded, all three CSs told SMULIAN that they had to meet with BOUT in person to finalize the arms deal and deliver the money. When CS-2 and CS-3 asked why BOUT could not meet with them in Romania, SMULIAN explained that BOUT is a very high profile figure and risked arrest if he traveled to Romania. SMULIAN then called BOUT, and told him that he should speak with CS-3 directly about where to meet. SMULIAN then handed CS-3 his cellphone, and said, "This is Victor."² CS-3 then spoke with BOUT for several minutes about potential meeting locations, which included Cuba, Nicaragua, and Armenia. CS-3 then returned the phone to SMULIAN, and SMULIAN continued to speak with BOUT.

16. After speaking with VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant for several more minutes, ANDREW SMULIAN, the defendant, informed CS-1, CS-2 and CS-3 that BOUT had 100 Iгла surface-to-air missiles available immediately. SMULIAN then showed the CSs photographs of Iгла surface-to-air missiles on his laptop computer, which listed the specifications of the missiles. SMULIAN also advised that BOUT could provide "special helicopters that can wipe out their helicopters," and could also provide training for using the helicopters. SMULIAN said that the helicopters now have missiles with double the range, and that the new launchers can fire three shots instead of just one. SMULIAN also advised that the weapons are in Bulgaria, and it will cost \$5 million to move them.

17. On or about January 27, 2008, at the direction of the DEA, CS-1 and CS-2 met with ANDREW SMULIAN, the defendant, in Bucharest again. During the meeting, which was recorded, SMULIAN indicated that VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant, could also provide armor piercing rocket launchers to CS-2 and CS-3. SMULIAN then showed CS-1 and CS-2

² CS-3 has listened to other recorded conversations involving BOUT, and has confirmed that the person with whom he spoke on the phone on January 26, 2008, is the same person whose voice is on the other recordings that he reviewed.

photographs of the armor piercing rocket launchers on his laptop computer. During this meeting, CS-2 also provided SMULIAN with another cellphone for him to use ("Cellphone 2"). At the request of the DEA, authorities in Romania performed judicially authorized intercepts of wire communications occurring over Cellphone 2, and subsequently provided the recordings of these communications to the DEA. These recordings contain several conversations between SMULIAN and another individual, whom SMULIAN identified to the CSs as BOUT. Having reviewed these recordings, I have learned the following:

a. On or about January 27, 2008, at approximately 12:25 p.m., SMULIAN called BOUT using Cellphone 2 and said, "Hey Vic" when BOUT answered the phone. CC-1 then provided BOUT with the phone number for Cellphone 2 and told BOUT to call him back at that number.

b. On or about January 28, 2008, at approximately 10:00 p.m., BOUT called SMULIAN on Cellphone 2, and explained that it would take 5 to 10 working days for him to get a visa for Romania. In response, SMULIAN said that that was acceptable because it was difficult for them (the FARC CSs) to travel to him. "You know the one guy the one that you spoke to (CS-3), he comes from the jungle. You know that's a problem and then the documentation they got is not suitable." BOUT replied, "I see, I see."

c. On or about January 29, 2008, at approximately 10:10 a.m., SMULIAN called BOUT using Cellphone 2 to discuss BOUT's travel to Romania again. SMULIAN explained that everyone was willing to wait for BOUT in Romania so long as BOUT was serious about coming. BOUT then interrupted SMULIAN, and said, "100 percent 100 percent sure! Wait for me max 10 days. I am there." BOUT then said, "make sure that it is real."

d. On or about January 30, 2008, at approximately 12:00 p.m., SMULIAN called BOUT using Cellphone 2, and said, "remember we worked out . . . the amount was 5 million all together?" In response, BOUT said that we would check on the amount and get back to SMULIAN. BOUT then stated he had confirmed "what they [] need," and that "as soon as we get documents we can do very quick that one." BOUT then instructed SMULIAN to "go to our place," where the "papers" can be "signed." BOUT advised SMULIAN that his "friend" has said "everything is ready." Based on my involvement in this investigation and my review of other intercepted conversations between BOUT and SMULIAN, I believe that BOUT was explaining to SMULIAN that he had spoken to his weapons supplier, and that SMULIAN would be able to meet with the supplier himself and finalize the weapons purchase. Shortly after this call, there was a recorded meeting between SMULIAN and CS-2 during which SMULIAN told CS-2 that "the weapons are ready in Bulgaria."

18. On or about January 28, 2008, at the direction of the DEA, CS-1 and CS-2 met with ANDREW SMULIAN, the defendant, in Bucharest again. During the meeting, which

was recorded, SMULIAN provided CS-2 with a digital memory stick, which is an electronic device used to store digital information, that contained the following:

a. an article about VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant, which includes a photograph of BOUT; and

b. documents containing photographs and specifications for the Igla surface-to-air missiles and armor piercing rocket launchers that SMULIAN had previously said BOUT could provide.

19. On or about February 4, 2008, at the direction of the DEA, CS-2 met with ANDREW SMULIAN, the defendant, alone in Bucharest. During the meeting, which was recorded, SMULIAN advised CS-2 that VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant, could provide an aerial transportation route from Nicaragua to Guyana in which the airplanes could air-drop the weapons over Colombian territory for CS-2. SMULIAN further stated that BOUT would provide the crews for the airplanes as well as 200 combat parachutes for dropping off the weapons. "If you give them a point," SMULIAN explained, "they can offload the stuff to you in the bush." SMULIAN and CS-2 then discussed the importance of having a meeting with BOUT, and providing him with a down payment for the weapons. SMULIAN later said, "You know they worked out in Moscow that you 've got about 9,000 people left + between 9 to 12,000 + and your maximum uptake of stuff will be 100 tons." Based on my training and experience, including my knowledge of the FARC, my involvement in this investigation, and the DEA 's conferral with CS-2, I believe that SMULIAN was referencing BOUT, who is based in Moscow, and the number of troops in the FARC and the amount of weapons needed to support that number of troops.

20. On or about February 5, 2008, Romanian authorities intercepted a telephone call, through a judicially authorized wiretap, between VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant and another associate not identified herein ("CC-2").³ According to Romanian authorities, CC-2 operates an airline company based in Romania. During this intercepted phone call, as described to the DEA by

³ Romanian authorities have compared the voices on the intercepted phone calls between BOUT and SMULIAN with the intercepted calls between BOUT and CC-2. Based on that comparison, Romanian authorities have determined that BOUT was on both sets of calls.

Romanian authorities, BOUT asked CC-2 for assistance in obtaining a visa to travel to Romania. CC-2 stated that he would look into it, but warned that Romania was not a safe place for BOUT to visit. Based on information provided by Romanian authorities, I have also learned that on or about December 24, 2007, a televised news broadcast in Romania referred to a business relationship between BOUT and CC-2. The following day, Romanian authorities intercepted a telephone call between BOUT and CC-2, in which CC-2 asked BOUT if he had heard about this news report.

21. On or about February 7, 2008, at the direction of the DEA, CS-2 met with SMULIAN in Bucharest again. During the meeting, SMULIAN offered to call VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant, so that CS-2 and BOUT could speak directly about the weapons transaction. SMULIAN then called BOUT on a cellphone provided by CS-2 ("Cellphone 3"). The DEA had given CS-2 Cellphone 3 earlier that day. At the request of the DEA, authorities in Romania performed judicially authorized intercepts of wire communications occurring over Cellphone 3, and subsequently provided the recordings of these communications to the DEA. After BOUT answered the phone, SMULIAN handed Cellphone 3 to CS-2. During the call, CS-2 told BOUT that "our organization (referring to the FARC) always needs friends like you that want to help us out." CS-2 then explained that he was leaving his contact information with SMULIAN so that they could stay in touch and come to an agreement about meeting in the near future. In response, BOUT said, "Okay, it's a good plan. We are going to do just as you're saying." CS-2 then said, "we are very, very interested in what your friend (referring to SMULIAN) told me that you can provide . . . [and] I know that people with whom I have spoken with are also very interested." In response, BOUT said, "Okay, okay." At the end of the call, BOUT said, "It's a really good plan to do . . . after two weeks, three weeks . . . Be good with them and keep line open . . . I think it will work because what you told me that they very excited, this most important."

22. During the February 7, 2008 meeting with ANDREW SMULIAN, the defendant, at the direction of the DEA, CS-2 provided an email address ("bogatzo32@yahoo.com") to SMULIAN for SMULIAN and VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant, to use to contact CS-2 in the future. On or about February 12, 2008, CS-2 received an email at the bogotazo32@yahoo.com address from a gmail.com email address, which read: "Buenos Dias! This is e mail we can use for communication[.] Best regards[,] Friend of Andrew." Records maintained by the email service provider of the gmail.com email address, which I have discussed with another DEA agent, indicate that this email account was created on February 12, 2008, under the subscriber name "Victor But," who has an address in Moscow, Russia, and a telephone number that is the same number that BOUT used to communicate with SMULIAN

and CS-2 when they were in Romania. The records maintained by the email service provider also indicate that the gmail.com email address was accessed multiple times from computers located in Russia from on or about February 12, 2008 through on or about February 15, 2008. Based on the foregoing, I believe that these records confirm that the email from the gmail.com address was sent by BOUT. This belief is further confirmed by subsequent events in the investigation, described below in paragraph 23.

23. On or about February 18, 2008, ANDREW SMULIAN, the defendant, sent an e-mail to CS-2 at the bogotazo32@yahoo.com address, stating in part: "My friend says he sent an email but was no reply, can you check if you received it. These days there can be confusion with all the spam comming [sic] in." CS-2 understood the reference to "my friend" to relate to VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant.

24. On or about February 21, 2008, VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant, called CS-2. During the call, which CS-2 recorded, CS-2 stated that he and CS-3, whom CS-2 referred to as "El Commandante" + were intending to travel to Thailand in the near future. BOUT stated that he could meet them there, and that he would call CS-2 the following day.

25. On or about February 22, 2008, VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant, called CS-2. During the call, which CS-2 recorded, CS-2 stated that he had conferred with "El Commandante," and that they could meet with BOUT within the next seven to ten days. BOUT indicated that this would be fine. CS-2 further stated that they would have to prepare their papers in order to be able to travel. BOUT replied that he would be able to travel as early as tomorrow (February 23, 2008). BOUT and CS-2 then agreed to speak again within the next seven to ten days.

26. On or about February 25, 2008, CS-2 called VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," the defendant. During the call, which CS-2 recorded, CS-2 stated that he was calling to provide an exact date for the meeting. CS-2 stated that the meeting will be next month on the sixth +- referring to March 6, 2008. BOUT then asked whether the meeting will be in the same place, which, based on paragraphs 23 through 25 above, I believe was a reference to Thailand. CS-2 replied that it would be in the same place. CS-2 asked BOUT whether he would have any problems with that date, and BOUT replied that he would not. After CS-2's telephone call with

BOUT, CS-2 called ANDREW SMULIAN, the defendant. During that call, which CS-2 recorded, CS-2 stated that he had spoken with "your friend" , - which I believe refers to BOUT , - and we are "going to the place" next month on the sixth (i.e., Thailand on March 6, 2008). SMULIAN replied, "yes, okay." CS-2 then stated, "get ready for travel."

WHEREFORE, your deponent respectfully requests that arrest warrants be issued for VIKTOR BOUT, a/k/a "Boris," a/k/a "Victor Anatoliyevich Bout," a/k/a "Victor But," a/k/a "Viktor Budd," a/k/a "Viktor Butt," a/k/a "Viktor Bulakin," a/k/a "Vadim Markovich Aminov," and ANDREW SMULIAN, the defendants, and that they be imprisoned or bailed as the case may be.

ROBERT F. ZACHARIASIEWICZ
Special Agent,
Drug Enforcement Administration

Sworn to before me this
_____ day of February, 2008

UNITED STATES MAGISTRATE JUDGE