

STATE OF WISCONSIN

CIRCUIT COURT

WAUKESHA COUNTY

THE STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 2012 CF 0037

JAMES D. GARDETTO  
D.O.B.: 5/30/1965  
Last Known Address:  
269 N. Chicago Ave.,  
South Milwaukee, WI 53172,

FILED  
CRIMINAL/TRAFFIC  
DIVISION

JAN 12 2012

WAUKESHA CO, WI

Defendant.

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AMENDED CRIMINAL COMPLAINT

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**COUNT ONE: FELONY BAIL JUMPING**

Between August 16 and August 17, 2011, in the County of Waukesha, Wisconsin, the above-named defendant, James D. Gardetto, did, having been released from custody in Racine County Case No. 2011-CF-0857 under Wis. Stat. Ch. 969, intentionally fail to comply with the terms of his bond, to-wit: by committing the crime of misrepresentation specified in count FOUR, contrary to Wis. Stat. §946.49(1).

Upon conviction for this offense, a Class H Felony, the penalty is a fine not to exceed \$10,000 or imprisonment not to exceed six (6) years, or both.

**COUNT TWO: FELONY BAIL JUMPING**

On or about August 17, 2011, in the County of Waukesha, Wisconsin, the above-named defendant, James D. Gardetto, did, having been released from custody in Racine County Case No. 2011-CF-0857 under Wis. Stat. Ch. 969, intentionally fail to comply with the terms of his bond, to-wit: by committing the crime of obstructing an officer specified in count FIVE, contrary to Wis. Stat. §946.49(1).

SCANNED

Upon conviction for this offense, a Class H Felony, the penalty is a fine not to exceed \$10,000 or imprisonment not to exceed six (6) years, or both.

**COUNT THREE: MANDATORY DISCLOSURE PRIOR TO SALE**

Between August 16, 2011, and August 17, 2011, in the County of Waukesha, the above-named defendant did, as a seller in a face to face transaction, fail to obey a general order issued under Wis. Stat. § 100.20(2) by failing to disclose the mailing address of the principal seller to a consumer, in writing, before the consumer enters into any purchase contract and before the seller accepts any payment from the consumer, in violation of Wis. Admin. Code ATCP §127.64(1)(d), and Wis. Stat. §100.26(3).

Upon conviction for this offense, an Unclassified Misdemeanor, the penalty is a fine of not less than \$25 nor more than \$5,000, or imprisonment of not more than twelve (12) months in the county jail, or both.

**COUNT FOUR: MISREPRESENTATION**

Between August 16, 2011, and August 17, 2011, in the County of Waukesha, the above-named defendant did, as a seller in a face to face transaction, fail to obey a general order issued under Wis. Stat. § 100.20(2) by misrepresenting the seller's location (to wit: Gardetto falsely claimed to have a store location in Waukesha), in violation of Wis. Admin. Code ATCP §127.72(1), and Wis. Stat. §100.26(3).

Upon conviction for this offense, an Unclassified Misdemeanor, the penalty is a fine of not less than \$25 nor more than \$5,000, or imprisonment of not more than twelve (12) months in the county jail, or both.

**COUNT FIVE: OBSTRUCTING AN OFFICER:  
GIVING FALSE INFORMATION**

On or about August 17, 2011, in the County of Waukesha, the above-named defendant did, knowingly give false information to an officer with intent to mislead the officer in the performance of her duty while the officer was doing an act in official capacity and with lawful authority (to wit: Gardetto provided a false business address to a Police Detective during the course of a police investigation), in violation of Wis. Stat. §946.41(2)(a).

Upon conviction for this offense, an Unclassified Misdemeanor, the penalty is a fine of not more than \$10,000, or imprisonment of not more than nine (9) months in the county jail, or both.

### **COUNT SIX: FRAUDULENT WRITINGS**

On or about June 29, 2011, in the County of Waukesha, the above-named defendant did, with intent to defraud and by means of deceit, obtain a signature to a writing (to wit: a personal check), in violation of Wis. Stat. §943.39(2).

Upon conviction for this offense, a Class H Felony, the penalty is a fine not to exceed \$10,000 or imprisonment not to exceed six (6) years, or both.

### **FACTUAL BASIS**

- 1.) The complainant is a Wisconsin Department of Agriculture, Trade, and Consumer Protection (“DATCP”) Investigator and bases this complaint upon information and belief, her review of DATCP records, her personal observations, the statements of adult citizen witnesses and the statements of James D. Gardetto.
- 2.) The complainant has reviewed DATCP special order Docket No. 03-C-51 against James D. Gardetto. The special order was entered on July 17, 2003, as a result of the stipulation by Mr. Gardetto consenting to the entry of the special order. The special order describes Gardetto’s known business practices related to an “electronic equipment repair service” and finds that “Gardetto’s business practices are unfair trade practices in business in violation of Wis. Stat. 100.20(1).”
- 3.) Additionally, the complainant is aware that Wis. Adm. Code Ch. 127 is promulgated under Wis. Stat. § 100.20(2) as a general order of the Wisconsin Department of Agriculture, Trade and Consumer Protection, a violation of which is a crime under Wis. Stat. § 100.26(3).

Specifically, Wis. Admin. Code ATCP §127.64(1)(d), sets forth as a general order that:

“In a face-to-face transaction, a seller shall disclose all of the following to a consumer, in writing, before the consumer enters into any purchase contract and before the seller takes the consumer's credit card number or accepts any payment from the consumer ... The name, mailing address and telephone number of the principal seller.”

Additionally, Wis. Admin. Code ATCP §127.72(1), sets forth as a general order

that:

“No seller may do any of the following, directly or by implication, in a face-to-face transaction ... Misrepresent a seller's identity, affiliation, location or characteristics.

4.) The complainant is aware that to prove a crime under Wis. Stat. § 100.26(3), the State need only show that Gardetto neglected or failed to comply with the order. Intent need not be shown pursuant to the Wisconsin Supreme Court decision in *State v. Stepniewski*, 105 Wis. 2d 261, 314 N.W.2d (1982).

#### ***Conditions of Bail/Release***

5.) The complainant has reviewed the criminal information in Racine County Circuit Court Case No. 2011-CF-0857. The criminal information charges James D. Gardetto with the commission of five criminal acts, including two felonies, in Racine County Circuit Court Case No. 2011-CF-0857. A copy of the criminal information in 2011-CF-0857 is attached and incorporated by reference.

6.) The complainant has reviewed a copy of the bail/bond order in Racine County Circuit Court Case No. 2011-CF-0857, issued on July 11, 2011. The conditions of bail and release require, among other things, that James D. Gardetto SHALL NOT COMMIT ANY CRIME as a condition of his release in 2011-CF-0857. A copy of the bail order in

2011-CF-0857 is attached and incorporated by reference. The bond conditions have remained unchanged since July 11, 2011.

*The Woldts*

- 7.) The complainant reviewed the statement of Kevin and Kim Woldt. The Woldts reported that a man identifying himself as "Jay" went to the Woldt residence on August 16, 2011, which is located on Jessica Dr., city of Pewaukee, Wisconsin 53072. The complainant is aware that this location is located in the county of Waukesha.
- 8.) The Woldts reported that, upon arrival at their residence, Jay identified himself as an "Accurate TV technician" and presented them with an estimate for approximately \$300.00 to fix the problems with their in-home electronic system. Jay then promoted an upgrade to improve their system for two times the price of the original estimate, at a total of \$603.55. The Woldts agreed to the face to face transaction. Kim Woldt reported that while on scene, Jay appeared to have made repairs and upgraded the system. Kim Woldt reported that upon completion Jay demanded payment by check made out to cash in the amount of \$603.55. Jay then left the residence. Kim Woldt reported she soon discovered that the system was not working.
- 9.) Kevin Woldt reports that Jay returned on August 17, 2011, this time accompanied by a male helper. Jay was now demanding cash including more money for a supposed billing error before he would do any work to correct the problem. Jay then offered to look at the system. The Woldts reported that Jay undid the work from the previous day and that he and his partner took the equipment that the Woldts had already paid for (cables and surge protectors), and ran from the residence to Jay's truck. Kevin Woldt

reports that Jay and his helper “tore off” in the truck, but that the Woldts were able to get the license plate number and call the police.

10.) Kim Woldt reported that both she and her husband asked Jay for his business address and Jay danced around the question and said that there are many Accurate TVs and that one is located in Waukesha.

11.) The complainant reviewed the contract that was presented to Kim Woldt on August 16, 2011. The contract is entitled “Accurate TV Repair Inc.” It is signed by Kim Woldt and dated August 16, 2011. The contract does not list the address of the business or seller. The contract does include the following email address: “TheRepairDept@gmail.com.”

12.) The complainant has reviewed records of the Wisconsin Department of Financial Institutions database, which keeps a record of all companies in Wisconsin. There is no record of “Accurate TV Repair Inc.” ever having existed.

13.) Therefore, “Jay” did not provide his mailing address to Kim Woldt (a consumer), in writing, before Mrs. Woldt entered into any purchase contract and before Jay accepted any payment from the Woldts.

#### *Detective Fabry*

14.) The complainant reviewed Waukesha County Sheriff’s Detective Christine Fabry’s police report.

15.) On August 17, 2011, Detective Fabry had contact with the above named defendant, James Gardetto. Fabry advised Gardetto that Fabry is a Detective with the Sheriff’s Department. Fabry also informed Gardetto that she had some questions that she would like to ask Gardetto concerning a service call in which he had just been involved.

- 16.) Gardetto said that he works for Accurate TV Repair.
- 17.) Gardetto said that he has been working with Accurate TV Repair for a year and a half.
- 18.) Gardetto said that the company address is 606 N. 6<sup>th</sup> Street, Milwaukee, Wisconsin.
- 19.) Gardetto said that the phone number is 414.777.0072.
- 20.) Gardetto said that he previously worked for Elmbrook TV.
- 21.) Gardetto confirmed that he went to the Woldts residence and supplied them with a service call. He stated that he provided them with an estimate for his services. He said that his common practice is to have the customer make out a check for cash and that the customer is made aware of this before completing the service.
- 22.) Gardetto admitted that he did change numerous cables, surge protectors, and a surge suppressor. Gardetto said that the total bill for parts, labor, and the trip charge was \$603.55.

#### *The United States Postal Inspector*

- 23.) The complainant contacted United States Postal Inspector Dean Kowalefski. The Postal Inspector informed the complainant that 606 N. 6<sup>th</sup> Street, Milwaukee, Wisconsin has never been a valid address.

#### *The Gillmans*

- 24.) The complainant has reviewed the statement of adult citizen witness Mrs. Sandra Gillman. Mrs. Gillman reports that James Gardetto went to her residence on June 29, 2011, for the purpose of repairing her television. Gillman reported that her residence is

located on Lenz Court, village of North Prairie, Wisconsin 53153. The complainant is aware that the Gillman's address is located within the county of Waukesha.

25.) The complainant spoke with Mrs. Gillman. Gillman informed the complainant that she looked online to find an authorized Samsung dealer and found "Milwaukee Television Repair."

26.) The complainant has reviewed a contract entitled "Milwaukee Television Repair & Sales Inc." which was signed by Sandra Gillman on June 29, 2011. The contract does not list the address of the business or seller. The contract does include the following email address: "TheRepairDept@gmail.com."

27.) Mrs. Gillman reported that she made a down-payment of \$550.00 to Mr. Gardetto. Mrs. Gillman reported that Gardetto identified himself as "Jay" and requested that the down-payment be made out to "cash." When Mrs. Gillman asked why the down-payment should not be made out to "Milwaukee Television Repair," "Jay" became aggressive and said "Ma'am, don't ask questions! I have been in this business for over 18 years." Mrs. Gillman reports that "Jay" then took the television to repair it back at his shop.

28.) Mrs. Gillman reported that after the June visit, she saw "Jay" the repairman on "Contact 6" news and learned that his real name is James Gardetto.

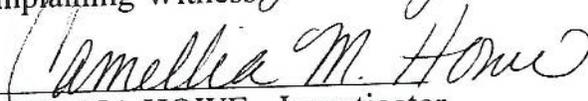
29.) Mrs. Gillman reported that several weeks passed and that Gardetto returned on August 24, 2011, claiming that the television was not worth repairing. He only offered a refund of \$122.00 although he had not performed any repairs on the television. At this time Mrs. Gillman asked "Jay" to identify himself and he said his name is "Jay Garner." Mrs. Gillman knew this was a lie because of the "Contact 6" news report.

30.) Mrs. Gillman reports that had she known that Gardetto is not "Milwaukee Television Repair & Sales Inc.," Gillman would not have signed the check for \$550.00.

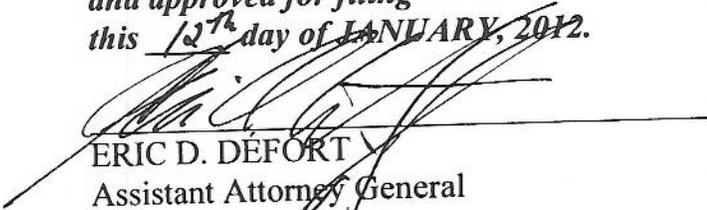
31.) The complainant has reviewed records of the Wisconsin Department of Financial Institutions database, which keeps a record of all companies in Wisconsin. There is no record of "Milwaukee Television Repair & Sales Inc." ever having existed.

**## END OF COMPLAINT ##**

Dated this 12 day of January, 2012.  
Complaining Witness:

  
CAMELLIA HOWE - Investigator  
Wisconsin Department of Agriculture,  
Trade, and Consumer Protection

*Subscribed and sworn to before me  
and approved for filing  
this 12<sup>th</sup> day of JANUARY, 2012.*

  
ERIC D. DEFORT  
Assistant Attorney General  
State Bar No. 1041760  
Special Prosecutor for Waukesha County  
Notary Public - Permanent Commission  
Wisconsin Department of Justice  
17 West Main Street, Madison, Wisconsin 53707-7857  
(608) 266-8514

State of Wisconsin

Branch 6

Racine County

State of Wisconsin,  
versus

plaintiff,

## INFORMATION

**James D Gardetto DOB: 05/30/1965**

4821 South Packard Av  
Cudahy, WI 53110

Circuit Court File No: 2011CF 875  
DA Case No.: 2011RA001309

M W Brown Blue Weight: 190 lbs Height: 5 ft 10 in  
G633-4446-5190-03

defendant(s).

I, Michael E. Nieskes, District Attorney in and for Racine County, State of Wisconsin, do hereby inform the court that the defendant did commit within the jurisdiction of Racine County, Wisconsin, the following crime(s):

### Count 1: FALSE IMPRISONMENT

The above-named defendant on or about Friday, February 11, 2011, in the City of Racine, Racine County, Wisconsin, did intentionally confine or restrain Leana A Contreras, without that person's consent, and with the knowledge that he had no lawful authority to do so, contrary to sec. 940.30, 939.50(3)(h) Wis. Stats., a Class H Felony, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than six (6) years, or both.

### Count 2: ROBBERY

The above-named defendant on or about Friday, February 11, 2011, in the City of Racine, Racine County, Wisconsin, with intent to steal, did take property from the person or presence of the owner, Leana A Contreras, by use of force against the person of the owner, with intent thereby to overcome that person's physical resistance or physical power of resistance to the taking or carrying away of the property, contrary to sec. 943.32(1), 939.50(3)(e) 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.

### Count 3: MISDEMEANOR BATTERY

The above-named defendant on or about Friday, February 11, 2011, in the City of Racine, Racine County, Wisconsin, did cause bodily harm to Leana A Contreras, by an act done with intent to cause bodily harm to that person, without that person's consent, contrary to sec. 940.19(1), 939.51(3)(a) Wis. Stats., a Class A Misdemeanor, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than nine (9) months, or both.

### Count 4: MISDEMEANOR THEFT - FALSE REPRESENTATION (<\$2500)

The above-named defendant on or about Friday, February 11, 2011, in the City of Racine, Racine County, Wisconsin, did obtain title to property of Leana A Contreras 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)(a), 939.51(3)(a) Wis. Stats., a Class A Misdemeanor, and upon conviction may be fined not more than Ten Thousand Dollars (\$10,000), or imprisoned not more than nine (9) months, or both.

### Count 5: DISORDERLY CONDUCT

The above-named defendant on or about Friday, February 11, 2011, in the City of Racine, Racine County, Wisconsin, while in a private place, did engage in violent conduct, under circumstances in which such conduct tended to cause a disturbance, contrary to sec. 947.01, 939.51(3)(b) Wis. Stats., a Class B Misdemeanor, and upon conviction may be fined not more than One Thousand Dollars (\$1,000), or imprisoned not more than ninety (90) days, or both.

The official records and files of the Racine County District Attorney's Office, the Wisconsin Department of Justice and/or Department of Transportation reflect that the defendant has the following record of convictions:

- 95 CM 501737 Theft
- 01 CM 7642 Resisting; Resisting
- 02 CF 1218 Felony Bail Jumping
- 02 CF 3152 Theft by Fraud
- 02 CM 3366 Resisting
- 03 CM 75 Resisting
- 03 CM 2525 Resisting
- 05 CM 8027 Resisting
- 09 CM 315 Resisting
- 10 CM 1005 Resisting

contrary to the form of the statute, in such case made and provided, and against the peace and dignity of the State of Wisconsin.

Dated at Racine, Wisconsin, this 3 day of August, 2011



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MICHAEL E. NIESKES, DISTRICT ATTORNEY  
State Bar No. 01002564  
730 Wisconsin Avenue  
Racine, Wisconsin 53403  
(262) 636-3172

The Clerk of the Circuit Court, Racine, Wisconsin  
does hereby certify that this document is a true  
and correct copy of the original on file and  
record in my office.

Dated: 8/31/11  
By: Stephanie Oute, Deputy

STATE OF WISCONSIN	CIRCUIT COURT	RACINE COUNTY	For Official Use Only
State of Wisconsin vs. James D Gardetto		<input type="checkbox"/> Amende <b>Bail / Bond</b>	
Date of Birth: 05-30-1965		Case No. 2011CF000857	
Citation No(s): _____			

**A. Monetary Conditions of Release**

CASH BAIL: Cash bail of \$3000.00 shall be deposited. Date deposited 07-11-11. Any restitution, recompense, fines, forfeitures or costs imposed against the defendant shall be paid out of the cash bail/bond without further notice.

If the defendant does not comply with the terms of this bail/bond, the bail/bond will be forfeited and the defendant and/or surety may be ordered to pay the amount of the bond.

**B. Additional Conditions of Release**

- Defendant shall appear on all court dates.
- Defendant shall give written notice to the Clerk of this Court within 48 hours of any change of address or telephone number.
- Defendant shall not commit any crime.
- Defendant shall neither directly nor indirectly threaten, harass, intimidate or otherwise interfere with victims or witnesses in this action.
- **Other:**

\$3,000 CASH TO BE POSTED WITHIN 24 HOURS OR REPORT TO RCJ... Charges per attached criminal complaint. Conditions: Make ALL court appearances on time. Failure to appear will result in the issuance of a warrant for your arrest, possible bail jumping charges and forfeiture of any bond on deposit. This case has been assigned to Judge Jude, Branch 4.

See Attached.

Federal law provides penalties for, and you may be prohibited from possessing, transporting, shipping, receiving or purchasing a firearm, including, but not limited to, a rifle, shotgun, pistol, revolver, or ammunition, pursuant to 18 U.S.C. 922(g)(8)9.

The sheriff shall detain the defendant in custody until the defendant has signed the bond, complied with the monetary conditions of release, or is otherwise discharged.

<b>I have received a copy of this bail/bond and I agree to its terms. I understand that my next court date is:</b>			
Circuit Court Location <input checked="" type="checkbox"/> 717 Wisconsin Avenue, OR <input type="checkbox"/> 730 Wisconsin Ave, ___ flr Courtroom Racine, WI 53403	Date 08-03-2011	Time 10:00 am	
Defendant's Signature 	Date 07-11-2011	Defendant's Address 4821 South Packard Av Cudahy, WI 53110	Defendant's Phone 414-841-8880
Surety's Signature _____	Date 07-11-2011	Surety's Address _____	Surety's Phone _____

**Distribution:**  
 Randall Schneider  
 James D Gardetto  
 Michael L. Cherin

I have furnished the defendant with a copy of this document.

The Clerk of the Circuit Court, Racine, Wisconsin does hereby certify that this document is a true and correct copy of the original on file and record in my office.

Dated: 8/31/11  
 By: Stephanne Oute, Deputy Clerk

Signature \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date July 11, 2011