

71530-5

71530-5

No. 71530-5-I

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,

Respondent,

v.

KIMBERLY ANN BAILEY,

Appellant.

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COURT OF APPEALS
STATE OF WASHINGTON

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR KING COUNTY

APPELLANT'S OPENING BRIEF

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A. SUMMARY OF ARGUMENT

When loss prevention officers stopped Kimberly Bailey for supposedly shoplifting from two retail department stores, they created a computerized record of the items she allegedly stole and the alleged retail price of each item. They then inserted the computerized record into another document entitled “admission statement” and directed Ms. Bailey to sign the document. Ordinarily, such computerized records are inadmissible hearsay unless they fall under a recognized exception to the hearsay rule. The trial court admitted the records as the admissions of a party-opponent. But the State did not prove Ms. Bailey understood the information contained in the records or unambiguously manifested a belief in its truth. The computerized records therefore did not qualify as admissions of a party-opponent and the court erred in admitting them.

B. ASSIGNMENTS OF ERROR

1. The trial court erred in admitting the computerized record contained in Exhibit 4.

2. The trial court erred in admitting the computerized record contained in Exhibit 9.

3. The trial court erred in admitting the computerized record contained in Exhibit 18.

4. The trial court erred in admitting Exhibit 29.

C. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. An otherwise inadmissible hearsay statement is not admissible as the adopted admission of a party-opponent unless the proponent of the evidence proves the party understood and unambiguously assented to the truth of the information contained in the statement. Here, when Ms. Bailey was stopped for suspected shoplifting, loss prevention officers directed her to sign an “admission statement” containing a computerized record of the items she allegedly took and the purported retail prices of the items. But the State did not prove Ms. Bailey understood the information contained in the lists or unambiguously assented to its truth. Did the trial court err in admitting the computerized lists as admissions of a party-opponent?

2. Hearsay within hearsay is not admissible unless each level of hearsay falls under a recognized exception to the hearsay rule. In addition, a record prepared specifically for litigation is not admissible under the business record exception to the hearsay rule. Did the trial court err in admitting a computerized record under the hearsay

exception for business records, where the record was prepared specifically for litigation and contained inadmissible hearsay within it?

D. STATEMENT OF THE CASE

On December 18, 2012, loss prevention officers Kathryn Delano and Roger Shadduck were working at the Nordstrom department store in downtown Seattle. 12/10/13RP 9-11, 70. They observed Kimberly Bailey apparently select some jewelry from the fashion jewelry department, hide the items in her hand, and then leave the store without paying for them. 12/10/13RP 11, 71. Ms. Delano and Mr. Shadduck stopped Ms. Bailey outside the store and escorted her back to the loss prevention office. 12/10/13RP 11, 71-72. Ms. Bailey admitted she took some merchandise without paying for it. 12/10/13RP 15.

The loss prevention officers recovered three Nordstrom necklaces and two rings from Ms. Bailey. 12/10/13RP 11, 17. They took a photograph of the merchandise. 12/10/13RP 17, 19; Exhibit 3. Although each item reportedly had a tag attached to it showing the retail price of the item, the alleged prices are not visible in the photograph. 12/10/13RP 23-24; see Exhibit 3.

The loss prevention officers created a computer-generated record listing the items allegedly recovered from Ms. Bailey.

12/10/13RP 19-20; Exhibit 4.¹ The list contains the alleged “UPC” number² associated with each item, a brief description of the item, and the alleged retail price that the item would have sold for that day.

12/10/13RP 22-24; Exhibit 4. The loss prevention officers inserted the computer-generated record into a document entitled “Adult Admission Statement.” 12/10/13RP 19-26. The document states, “I admit of my own free will, without threats or promises, that on 12/18/12 I took the following items listed below from the possession of Nordstrom Store.”

Exhibit 4. The officers reviewed each item listed on the computer-generated record with Ms. Bailey and then had her sign the document.

12/10/13RP 10, 25-26; Exhibit 4.

Several weeks later, on January 26, 2013, loss prevention officers Delano and Shaddock again observed Ms. Bailey in the downtown Seattle Nordstrom store. 12/10/13RP 36-37, 72. They saw her select items from the fashion jewelry department, conceal them in her hand, and exit the store without paying for them. 12/10/13RP 37, 73. They contacted Ms. Bailey outside the store and escorted her back to the loss prevention office. 12/10/13RP 37-38, 73. Ms. Bailey

¹ A copy of Exhibit 4 is attached to this brief as Appendix A.

² The “UPC” number is the unique bar code number associated with each item of merchandise which is used for inventory tracking. 12/10/13RP 17-18, 22-23.

admitted she took some merchandise without paying for it.

12/10/13RP 38-39, 74.

The officers recovered two Nordstrom bracelets and a ring from Ms. Bailey. 12/10/13RP 37. Once again they took a photograph of the merchandise. 12/10/13RP 40-41, 75; Exhibit 7. The photograph shows a tag attached to each item and the retail price the item was offered for on that day, written on the tag. 12/10/13RP 40-41, 75; Exhibit 7. The total retail price for all three items, according to the tags, was \$145.05. Exhibit 7.

Once again the loss prevention officers directed Ms. Bailey to sign a document entitled "Adult Admission Statement." 12/10/13RP 77-78; Exhibit 9.³ Like the earlier document, it contains a computer-generated record listing the items Ms. Bailey allegedly stole, including the UPC number, a brief description of the item, and the alleged retail price. 12/10/13RP 78; Exhibit 9. Loss prevention officer Shaddock reviewed each item with Ms. Bailey before directing her to sign the document. 12/10/13RP 78.

Finally, on January 11, 2013, loss prevention officers Pawel Pucilowski and Lydia Sprague observed Ms. Bailey at the Macy's store in Northgate Mall. 12/10/13RP 91-93, 159. They saw her select some

items of jewelry and clothing, conceal the items, and then leave the store without paying for them. 12/10/13RP 93-96, 160. They stopped Ms. Bailey as she exited the store and escorted her to the loss prevention office. 12/10/13RP 100-01, 163-64. Ms. Bailey admitted she took some merchandise without paying for it. 12/10/13RP 100-01.

The loss prevention officers recovered several items of merchandise from Ms. Bailey. 12/10/13RP 100-01, 167. They took a photograph of the items, which does not clearly show the prices written on the tags attached to them. 12/10/13RP 135, 167; Exhibit 17. Some of the items were missing their tags. 12/10/13RP 128.

As at Nordstrom, the Macy's loss prevention officers created a computer-generated record listing the items allegedly recovered from Ms. Bailey. 12/10/13RP 165. They created the list by scanning the "SKU" number⁴ for each item into a "regular scanner" that generates a price for each item from the computer database. 12/10/13RP 102-03, 124. The computer-generated list contains each item's alleged SKU

³ A copy of Exhibit 9 is attached as Appendix B.

⁴ Like the Nordstrom "UPC" number, the Macy's "SKU" number is the unique bar code number associated with each item of merchandise. 12/10/13RP 103.

number, a brief description of the item, and the alleged retail price.

12/10/13RP 102-03; Exhibit 18.⁵

The loss prevention officers inserted the computer-generated list into a document entitled “Statement of admission.” 12/10/13RP 102; Exhibit 18. The statement provides, “I, Kimberly Ann Baily [sic] . . . did take merchandise and/or cash belonging to Macy’s without consent or permission and with the intent to permanently deprive Macy’s of their property.” Exhibit 18. The officers read the document to Ms. Bailey and directed her to sign it. 12/10/13RP 113.

Ms. Bailey was charged with one count of second degree organized retail theft. CP 6. The charge required the State to prove the cumulative value of the property Ms. Bailey took from Nordstrom and Macy’s was at least seven hundred fifty dollars. CP 6; RCW 9A.56.350(1)(c), (3), (4).

Several months after the Macy’s incident, in October 2013, loss prevention officer Sprague created a computer-generated document showing the prices that items with SKU numbers identical to the ones listed on Exhibit 18 had actually sold for on the date of the alleged incident. 12/10/13RP 172-75; Exhibit 29.⁶ The receipts contained in

⁵ A copy of Exhibit 18 is attached as Appendix C.

⁶ A copy of Exhibit 29 is attached as Appendix D.

the report originated from Macy's stores in other areas of the country; none was from Washington State. 12/10/13RP 175. Ms. Sprague later testified that all items with the same SKU numbers sell for the same price at all Macy's stores. 12/10/13RP 175. Many of the items actually sold for prices that were substantially lower than the prices listed on Exhibit 18. 12/10/13RP 177-82. The trial court admitted Exhibit 29, over objection, as a business record. 12/10/13RP 185-89.

At trial, to prove the value of the merchandise, the State offered Ms. Bailey's "admission statements," including the computer-generated records that listed the alleged retail prices. Defense counsel objected to the computer-generated records as hearsay. 12/10/13RP 21, 45, 59, 78, 108. Counsel conceded that the portions of the "admission statements" in which Ms. Bailey admitted she took merchandise were admissible as statements of a party-opponent. 12/10/13RP 45-47. But the computer-generated records contained within the documents were hearsay within hearsay. 12/10/13RP 45-48. The trial court overruled the objection, reasoning that the entire document was akin to a "confession to a murder case" and therefore admissible as the admission of a party-opponent. 12/10/13RP 49, 78, 110-11.

The jury found Ms. Bailey guilty of second degree organized retail theft as charged. CP 10.

E. ARGUMENT

The computer-generated records containing lists of alleged retail prices pertaining to the items taken were inadmissible hearsay

1. *Standard of review*

A trial court's interpretation of the rules of evidence is a question of law reviewed de novo. State v. Sanchez-Guillen, 135 Wn. App. 636, 642, 145 P.3d 406 (2006) (citing State v. DeVincentis, 150 Wn.2d 11, 17, 74 P.3d 119 (2003)). The Court reviews the trial court's application of the rules to particular facts for an abuse of discretion. Id.

2. *Computer-generated records are inadmissible hearsay unless they fall within a recognized exception to the hearsay rule*

It is well-established that “[c]omputer-generated evidence is generally hearsay and can only be admitted if it comes within one of the established exceptions to the hearsay rule.”⁷ State v. Kane, 23 Wn. App. 107, 111, 594 P.2d 1357 (1979).

⁷ “‘Hearsay’ is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” ER 801(c). Generally, hearsay is not admissible unless it falls under an established exception to the hearsay rule. See ER 802 (“Hearsay is not admissible except as provided by these rules, by other court rules, or by statute.”).

The purpose of the rule barring hearsay evidence is to “prevent the jury from hearing statements without giving the opposing party a chance to challenge the declarants’ assertions.” Brundridge v. Fluor Fed. Servs., Inc., 164 Wn.2d 432, 451-52, 191 P.3d 879 (2008). The rule serves “to exclude untrustworthy evidence which may prejudice a litigant’s cause or defense.” Nordstrom v. White Metal Rolling & Stamping Corp., 75 Wn.2d 629, 632, 453 P.2d 619 (1969).

Ordinarily, computer records are deemed sufficiently trustworthy to be admissible in a criminal trial if they satisfy the statutory “business records” exception to the hearsay rule.⁸ See, e.g., State v. Quincy, 122 Wn. App. 395, 401-02, 95 P.3d 353 (2004); State v. Ben-Neth, 34 Wn. App. 600, 603, 663 P.2d 156 (1983). Admitting a computer record under the business records exception ensures its trustworthiness because the trial court must find the “sources of information, method and time of preparation were such as to justify its

⁸ RCW 5.45.020 provides:

A record of an act, condition or event, shall in so far as relevant, be competent evidence if the custodian or other qualified witness testifies to its identity and the mode of its preparation, and if it was made in the regular course of business, at or near the time of the act, condition or event, and if, in the opinion of the court, the sources of information, method and time of preparation were such as to justify its admission.

admission.”” Ben-Neth, 34 Wn. App. at 604 (quoting RCW 5.45.020). The proponent of the evidence must offer the testimony of a person “who has custody of the record as a regular part of his work or has supervision of its creation.” Quincy, 122 Wn. App. at 399. The witness must be able to explain the method used to retrieve the computer record as well as the procedure by which it is created and maintained. Id. at 400. The proponent must also show the record was created in the regular course of business and the business’s employees rely upon the information contained within it. Id. at 400-01. If these statutory requirements are met, computerized records are deemed as trustworthy as any other business record admissible under the statute. Ben-Neth, 34 Wn. App. at 603.

But here, the State did not seek to offer the computerized records under the business records exception to the hearsay rule. Instead, the State offered the evidence, and the trial court admitted it, as admissions of a party-opponent. 12/10/13RP 49, 78, 110-11. In this manner, the State circumvented the well-established foundation requirements for demonstrating the trustworthiness of a business record. The State did not establish that the “sources of information, method and time of preparation were such as to justify” admission of

the computerized records. See Ben-Neth, 34 Wn. App. at 604 (quoting RCW 5.45.020).

The State's failure to establish the admissibility of the computer records under the business records exception was fatal because the records did not qualify as admissions of a party-opponent.

3. *The computerized records were not admissible as party-opponent admissions because the State did not establish that Ms. Bailey clearly manifested an adoption or belief in the truth of the information contained in the records*

An out-of-court statement is considered non-hearsay and is admissible as the admission of a party-opponent if “[t]he statement is offered against a party and is (i) the party’s own statement, in either an individual or a representative capacity or (ii) a statement of which the party has manifested an adoption or belief in its truth.” ER 801(d)(2); Lodis v. Corbis Holdings, Inc., 172 Wn. App. 835, 859, 292 P.3d 779 (2013).

Here, the computerized records containing lists of the UPC numbers and alleged retail prices of the items taken were not Ms. Bailey’s “own statements.” Instead, they were hearsay within hearsay,

contained within a larger document that itself contained Ms. Bailey's own statements.⁹ Exhibit 4, 9, 18.

“Multiple hearsay is . . . even more vulnerable to all the objections which attach to simple hearsay.” Naples v. United States, 344 F.2d 508, 511 (D.C. Cir. 1964), overruled in part on other grounds by Fuller v. United States, 407 F.2d 1199 (D.C. Cir. 1968) (internal quotation marks and citation omitted). When a party seeks to admit hearsay within hearsay, it must establish that each level of hearsay independently conforms to an exception to the hearsay rule. ER 805. Under ER 805, “an admission repeating another’s statement is admissible only if the other person’s statement is itself an admission or falls within an exception to the hearsay rule.” Jordan v. Binns, 712 F.3d 1123, 1129 (7th Cir. 2013). Thus, in this case, the contents of the computerized records were independently admissible as the admissions of a party-opponent only if the State could establish that Ms. Bailey “manifested an adoption or belief in [their] truth.” ER 801(d)(2)(ii).

⁹ Thus, the trial court erred in finding that the computerized records were akin to a “confession to a murder case.” 12/10/13RP 49. A confession to a murder would be a party’s “own statement” and therefore would fall under ER 801(d)(2)(i). Here, the computerized records were not Ms. Bailey’s “own statement” and were therefore admissible as party-opponent admissions only if the State proved they qualified as adoptive admissions under ER 801(d)(2)(ii).

To show that a party adopted the contents of the statement of another, the proponent of the evidence must show the party “manifestly adopted and believed [the statement] to be true.” Bertsch v. Brewer, 97 Wn.2d 83, 86, 640 P.2d 711 (1982). The proponent must show the party’s conduct in relation to the statement was affirmatively “intended as an adoption of the statement.” White Industries, Inc. v. Cessna Aircraft Co., 611 F. Supp. 1049, 1062 (W.D. Mo. 1985).¹⁰

“Accordingly, the mere fact that the party has acted (or failed to act, in the case of an admission by silence) in some way in reference to the statement or information (as by repeating it or retaining it) is not sufficient, standing alone, to justify a finding that there has been an adoption.” Id. Whether the party’s action reflects an intent to adopt the statement depends on the surrounding circumstances, including “the circumstances and nature of the underlying statement itself.” Id.

A party’s use of a document supplied by another may be sufficient to demonstrate an intent to adopt the truth of the information

¹⁰ ER 801(d)(2)(ii) mirrors the comparable federal rule. See FRE 801(d)(2)(B) (providing that an opposing party’s out-of-court statement is admissible as an adoptive admission if offered against the party and “is one the party manifested that it adopted or believed to be true”). Thus, federal case law interpreting FRE 801(d)(2)(B) is persuasive authority in interpreting ER 801(d)(2)(ii). In re Det. of Pouncy, 168 Wn.2d 382, 392 n.9, 229 P.3d 678 (2010).

contained therein. *Id.* But the circumstances must show the party acted “in some *significant, identifiable way, in direct reliance upon the specific information in question*, so as to demonstrate clearly the party’s belief in and intentional adoption of that information.” *Id.* at 1063.

In Momah v. Bharti, 144 Wn. App. 731, 749, 182 P.3d 455 (2008), for example, Bharti, an attorney, posted biographical information, comments from clients, information about a class-action suit he prosecuted, and media reports about his cases on his website. The Court held the contents of the out-of-court statements were admissible against Bharti as adoptive admissions under ER 801(d)(ii) because “Bharti has taken affirmative steps to provide the information to inform the public about himself and his legal practice.” *Id.* at 750. The Court reasoned, “[b]y providing the content as a means of publicizing himself, Bharti effectively manifest[ed] his belief in the truth of the information.” *Id.*

Similarly, a party’s possession of a document created by another may demonstrate an intent to adopt the contents of the document if additional circumstances affirmatively demonstrate the party manifested a belief in the truth of the contents. *See, e.g., United States v. Pulido-Jacobo*, 377 F.3d 1124, 1132 (10th Cir. 2004). In Pulido-

Jacobo, for example, the defendant held onto a speaker receipt for more than two months after the speaker purchase, and police officers found speakers in the trunk of his car matching the description on the receipt. Id. The Tenth Circuit held that, although possession of a document alone is not sufficient to demonstrate an intent to adopt the contents of the document, “possession plus” may suffice. Id. There, the evidence was sufficient because “the surrounding circumstances tie[d] the possessor and the document together in some meaningful way.” Id. (internal quotation marks and citation omitted).

By contrast, the mere fact that a “party declares that he or she has heard that another person has made a given statement is not alone sufficient to justify finding that the party has adopted the third person’s statement.” Powers v. Coccia, 861 A.2d 466, 470 (R.I. 2004) (internal quotation marks and citation omitted). “Instead, the party offering the evidence must show that the circumstances surrounding the party’s declaration indicate his or her approval of the statement.” Id.

In Coccia, Coccia was the owner of a rental property who was sued for negligence by a tenant following a bird mite infestation. Id. at 468. At trial, the plaintiffs sought to admit an affidavit Coccia had filed in a separate civil action which incorporated statements made to him by

pest control companies and a representative of a construction company. Id. at 469. The Rhode Island court held the third-party statements could not be used against Coccia because there was “no evidence that Coccia approved of and adopted the statements as his own, but only that he recounted to the court in a separate action statements made to him by pest control and construction companies.” Id. at 470. The contents of the documents were not admissible as adoptive admissions because there was “insufficient evidence either tying defendant to the documents in a meaningful way or indicating his approval or adoption of the statements contained within them.” Id.; cf. Harris v. United States, 834 A.2d 106, 121-22 (D.C. Ct. App. 2003) (holding that although Assistant United States Attorney’s signature on affidavit in support of search warrant manifested adoption on behalf of government of police detective’s conclusion that probable cause existed, “it d[id] not necessarily imply agreement with the entire contents of the affidavit, *i.e.*, with all the subordinate facts set forth in the affidavit”).

Here, as in Coccia and Harris, Ms. Bailey’s signature on a document containing statements generated by a department store computer was not alone sufficient to show she affirmatively approved or adopted the information contained within the statements. Ms. Bailey

was aware of what the computer said the UPC codes and retail prices of the items were. That information was contained within the documents she signed. Ex. 4, 9, 18. The loss prevention officers read the documents to Ms. Bailey before she signed them. 12/10/13RP 10, 25-26, 78, 113. But simply because a “party declares that he or she has heard that another person has made a given statement is not alone sufficient to justify finding that the party has adopted the third person’s statement.” Coccia, 861 A.2d at 470. Even if Ms. Bailey was aware of the contents of the computer-generated records, that is not sufficient to show she understood the information or affirmatively agreed that it was true. See Id. at 469-70; Harris, 834 A.2d at 121-22.

The State bore the burden to show that Ms. Bailey acted “in some *significant, identifiable way, in direct reliance upon the specific information in question*, so as to demonstrate clearly [her] belief in and adoption of that information.” White Industries, 611 F. Supp. at 1063. The State did not meet its burden. Unlike in Momah v. Bharti, the State did not show that Ms. Bailey used the information, acted upon it, or took any other affirmative steps that “effectively manifest[ed] [her] belief in the truth of the information.” Momah, 144 Wn. App. at 750.

Without any knowledge of how the department store computers generated the reports or ascertained the alleged retail prices, there is little doubt that Ms. Bailey did not understand the information contained in the reports and could not say whether she believed it was true or not. In sum, the State did not show Ms. Bailey “manifested an adoption or belief” in the truth of the computer-generated records, as required by ER 801(d)(2)(ii). Therefore, the court erred in admitting the records.

4. *Exhibit 29 was not admissible because it contained inadmissible hearsay and was prepared for the purpose of litigation*

Exhibit 29 is a computer-generated report that Macy’s loss prevention officer Sprague created several months after the incident in preparation for litigation. 12/10/13RP 175. Sprague created the report by inputting the SKU numbers contained in the computer-generated record contained in Exhibit 18 into the computer. 12/10/13RP 172. The computer then generated receipts from sales of items with identical SKU numbers which allegedly occurred at Macy’s stores around the country on the date of the incident in this case. 12/10/13RP 173-75.

The trial court admitted Exhibit 29, over objection, as a business record. 12/10/13RP 179. The court reasoned the report was not

prepared for the purpose of litigation because it contained sales records that were themselves created at the time of the incident. 12/10/13RP 187-88. The court erred in admitting the document because it contains inadmissible hearsay and was created for the purpose of litigation.

Exhibit 29 contains the SKU numbers listed in the computer-generated report contained within Exhibit 18. Ms. Sprague did not obtain the SKU numbers from any independent source but merely took the numbers directly from the computer-generated record contained in Exhibit 18. 12/10/13RP 172. As discussed, the computer-generated record contained in Exhibit 18, including the SKU numbers, was inadmissible hearsay.

When a party seeks to admit hearsay within hearsay, it must establish that each level of hearsay independently conforms to an exception to the hearsay rule. ER 805. As previously discussed, the SKU numbers contained in Exhibit 29 were inadmissible hearsay. Exhibit 29 has little relevance without the SKU numbers. Therefore, the court erred in admitting the document. See ER 402 (“Evidence which is not relevant is not admissible.”).

Moreover, Exhibit 29 was not admissible as a business record. In order for a document to be admissible under the hearsay exception

for business records, the proponent must show the document was “made in the regular course of business, at or near the time of the act, condition or event.” RCW 5.45.020. A document that is specially prepared for trial is not admissible under the exception. Owens v. City of Seattle, 49 Wn.2d 187, 193-94, 299 P.2d 560 (1956). In Owens, for example, three months after the automobile accident that was the subject of a negligence action, an engineer arranged to have levels taken of the surface of the road at the point where the accident occurred and used the data to make a graph for the purpose of visually depicting this data. Id. The Supreme Court held the graph did not fall under the hearsay exception for business records because it was made for the purpose of litigation. Id.

Here, as in Owens, Exhibit 29 was prepared specially for litigation. Ms. Sprague created the report in October 2013, well after the alleged incident took place, specifically for the purpose of preparing for trial. 12/10/13RP 175. Although the report contains sales records that were created at the time of the incident, that does not mean the report was admissible as a business record. In Owens, the document contained information that existed at the time of the incident, but the report itself was created for trial and was therefore inadmissible.

Owens, 49 Wn.2d at 193-94. Similarly, Exhibit 29 was prepared specially for trial and was therefore inadmissible under the hearsay exception for business records.

5. *Because the prices listed in the inadmissible computer-generated records were essentially the only evidence of value presented, the conviction must be reversed*

When evidence is improperly admitted, the trial court's error is harmless only if it is minor in reference to the overall, overwhelming evidence as a whole. State v. Bourgeois, 133 Wn.2d 389, 403, 945 P.2d 1120 (1997). Here, the error was not harmless because the erroneously admitted evidence was virtually the only evidence offered to prove an essential element of the crime.

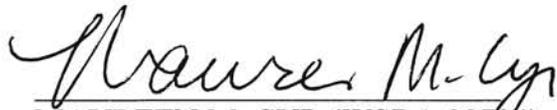
To prove the charged crime of second degree organized retail theft, the State was required to prove Ms. Bailey stole merchandise "with a cumulative value of at least seven hundred fifty dollars." RCW 9A.56.350(1)(c); CP 6-7. "'Value' means the market value of the property or services at the time and in the approximate area of the criminal act." RCW 9A.56.010(21)(a). Market value is the price that a well-informed buyer would pay to a well-informed seller. State v. Longshore, 141 Wn.2d 414, 429, 5 P.3d 1256 (2000) (quoting State v. Kleist, 126 Wn.2d 432, 435, 895 P.2d 398 (1995)).

Here, virtually the only evidence of value offered by the State were the SKU numbers and alleged retail prices set forth in the computer-generated records in Exhibits 4, 9, 18, 29.¹¹ Those documents were inadmissible. The record contains no other evidence to prove the essential element of “value.” Therefore, the conviction must be reversed. Bourgeois, 133 Wn.2d at 403.

F. CONCLUSION

The computer-generated records containing the lists of alleged retail prices were erroneously admitted hearsay. Because without those records the evidence was insufficient to prove the essential element of value, the conviction must be reversed.

Respectfully submitted this 29th day of September, 2014.


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Washington Appellate Project - 91052
Attorneys for Appellant

¹¹ The State did offer Exhibit 7, a photograph of three items Ms. Bailey took from Nordstrom, in which the prices written on tags attached to the items are visible. But the total price of those three items, according to the tags, was only \$145.05, well below the \$750 threshold required to prove the crime.

APPENDIX A

NORDSTROM
Adult Admission Statement

Case #: CS-001-SL-0185 Date: 12/18/12

Consent of: Kimberly Ann Bailey

I admit of my own free will, without threats or promises, that on 12/18/12

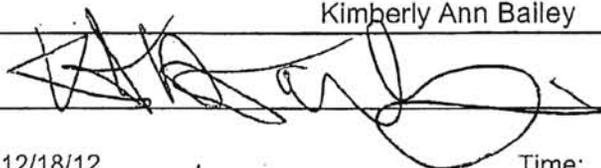
I took the following items listed below from the possession of Nordstrom Store

1 located at: 500 Pine Street, Seattle, WA 98101-1744

	Description	Dept	UPC	QTY	Price Each
1	Anna Beck Necklace	hion Jewe	811284019530	1	\$93.98
2	Anna Beck Neckla <u>ce</u>	hion Jewe	811284019554	1	\$118.80
3	Argentino Vivo <u>Necklace</u>	hion Jewe	655789160423	1	\$92.46
4	Judith Jack Ring	hion Jewe	766393026828	1	\$175.00
5	Simon Sebbag Ring	hion Jewe	840415091190	1	\$75.04

All of which is \ \$555.28 . When I took the merchandise, I did so intending it for my own personal use knowing I was depriving Nordstrom of their property.

Printed Name: Kimberly Ann Bailey

Signature: 

Date: 12/18/12 Time: 14:50

Loss Prevention Witness: Katherine T. Delano

APPENDIX B

NORDSTROM
Adult Admission Statement

Case #: CS-001-SL-0035-13 Date: 1/26/13

Consent of: Kimberly Ann Baily

I admit of my own free will, without threats or promises, that on 1/26/13

I took the following items listed below from the possession of Nordstrom Store

1 located at: 500 Pine Street, Seattle, WA 98101-1744

	Description	Dept	UPC	QTY	Price Each
1	Nadri Bracelet	hion Jewe	664293216328	1	\$58.96
2	Hematie Bracelet	hion Jewe	664293182678	1	\$53.60
3	Clear Crystal Silver Ring	hion Jewe	097754025908	1	\$32.49

All of which is \$145.05. When I took the merchandise, I did so intending it for my own personal use knowing I was depriving Nordstrom of their property.

Printed Name: Kimberly Ann Baily

Signature: 

Date: 1/26/13 Time: 1:01

Loss Prevention Witness: _____

APPENDIX C



I, Kimberly Ann Baily living at 18405 Aurora Ave H-54, Shoreline, WA 98133, make this statement voluntarily and of my own free will and accord, without intimidation by threats or promises, that on Friday, January 11, 2013, I did take merchandise and/or cash belonging to Macy's without consent or permission and with the intent to permanently deprive Macy's of their property.

SKU	Description	Qty	Unit Price	Total
1 0011996612887	GD AMY STR BRC	1	\$24.50	\$24.50
2 0011996608545	GD GLD STR BRC	1	\$38.00	\$38.00
3 0644626530000	60 ILLUS NK MIX META	1	\$15.00	\$15.00
4 080388668988	Lrg Wire Metal Cuff	1	\$13.00	\$13.00
5 0644626530819	COIL GLS BD PEACOCK	1	\$35.00	\$35.00
6 0664293123350	PAVE LEAF V NECK RHD	1	\$150.00	\$150.00
7 0885043674186	RG SLV FAC STN	1	\$45.00	\$45.00
8 0098686403895	NK SLV COLLAR BEAD	1	\$42.00	\$42.00
9 0098686056350	FRIDA CLIP BRS	1	\$35.00	\$35.00
10 0098686403895	NK SLV COLLAR BEAD	2	\$42.00	\$84.00
11 0848767000600	HEM N BLING STR BRC	1	\$34.50	\$34.50
12 0848767000600	HEM N BLING STR BRC	1	\$34.50	\$34.50
13 0008672358061	CORDUROY LEGGINGS	1	\$19.50	\$19.50
14 0047852982863	1PR GOLD SPLATTER LE	1	\$45.00	\$45.00
15 0008672378687	PIQUE PENCIL LEGGING	1	\$24.00	\$24.00
16 0047852983372	1PR SIDE ZIPPER AND	1	\$38.00	\$38.00
17 0723764385090	PERFECT JWLRY CAS	1	\$55.00	\$55.00
18 0762670571463	SANTORINI	1	\$90.00	\$90.00
				\$822.00

Signature: _____

LP Representative: _____

Address: 18405 Aurora Ave H-54

Witness: _____

City/ST/Zip: Shoreline WA 98133

APPENDIX D

Macy's UPC/Week

STATE EXHIBIT 29

Search Criteria:

UPC: 8672358061
Starting week: 01/11/2013
Week ending: 01/11/2013

Transaction History:

PURCHASE 01/11/2013 11 18 481
RETURN 01/16/2013 11 18 749

Transaction Detail (DCR):

PURCHASE 011-0018-0481
L0109506 04:47 PM 01/11/13

BARCODE: R3011011001804817107

PURCHASE MERCHANDISE

TIGHTS 9.99
8672358061 322/021
ORIG 39.00/TODAY'S PRICE 9.99
CRL 0522508928713

TIGHTS 9.99
8672357569 322/021
ORIG 39.00/TODAY'S PRICE 9.99
CRL 0522508928714

TIGHTS 9.99
8672354520 322/021
ORIG 39.00/TODAY'S PRICE 9.99
CRL 0522508928715

3 ITEMS SUBTOTAL 29.97
 5.000% VA TAX 1.50
 PURCHASE TOTAL 31.47

TOTAL 31.47

VISA 31.47

00 1114 1000 [REDACTED] DEBIT

Macy's UPC/Week

Search Criteria:

UPC: 47852982863
Starting week: 01/10/2013
Week ending: 01/12/2013

Transaction History:

PURCHASE 01/12/2013 95 96 6958

Transaction Detail (DCR):

PURCHASE 095-0096-6958
71453178 05:50 PM 01/12/13

BARCODE: K3012095G09669587103

PURCHASE MERCHANDISE

TIGHTS 31.50
47852982863 322/014
ORIG 45.00/TODAY'S PRICE 31.50
CRL 0522811904412

BRAS 10.80
29442153181 251/017
ORIG 36.00/TODAY'S PRICE 10.80
CRL 0522811904413

BRAS 10.80
17826518680 251/060
ORIG 36.00/TODAY'S PRICE 10.80
CRL 0522811904414

3 ITEMS SUBTOTAL 53.10
 5.00% VA TAX 2.66
 PURCHASE TOTAL 55.76

 TOTAL 55.76

MACY'S GIFT CARD 55.76
NOTE: ~~XXXXXXXXXXXX~~ \$

Macy's UPC/Week

Search Criteria:

UPC: 8672378687
Starting week: 01/11/2013
Week ending: 01/11/2013

Transaction History:

PURCHASE 01/11/2013 3 126 3338

Transaction Detail (DCR):

PURCHASE 963-0126-3338
10357769 06:30 PM 01/11/13

BARCODE: R3011003012633387106

PURCHASE MERCHANDISE

TIGHTS 9LH 8.49
8672378687 322/021
ORIG 48.00/TODAY'S PRICE 9.99
15% OFF CPN
CRL 3522677904136

PURCHASE TOTAL 8.49

TOTAL 8.49

M/C 8.49

30 1213 10000 [REDACTED] DEBIT

Macy's UPC/Week

Search Criteria:

UPC: 644626530000
Starting week: 01/11/2013
Week ending: 01/11/2013

Transaction History:

PURCHASE 01/11/2013 485 25 4800

Transaction Detail (DCR):

PURCHASE 485-0025-4800
71117361 04:19 PM 01/11/13

BARCODE: R3011485002548007107

PURCHASE MERCHANDISE

TR/PRO JWRLY 10.20
644626530031 288/020
ORIG 24.00/TODAY'S PRICE 12.00
15% OFF CPN
CRL 0522577817502

REFANI JEWELRY 12.75
732041326527 207/020
ORIG 30.00/TODAY'S PRICE 15.00
15% OFF CPN
CRL 0522577817503

TR/PRO JWRLY 12.75
644626530000 288/020
ORIG 30.00/TODAY'S PRICE 15.00
15% OFF CPN
CRL 0522577817504

NECKWEAR 34.98
732997063057 328/073
ORIG 34.98/TODAY'S PRICE 34.98
CRL 0901610432029

4 ITEMS	SUBTOTAL	70.60
9.00% CA	TAX	6.36
	PURCHASE TOTAL	77.04
	TOTAL	77.04

MACY'S CHARGE 77.04
605002 XXXXXXXXXXXXXXXXXXXX S
LOYALTY NUMBER XXXXXXXXXXXXXXXXXXXX

Macy's UPC/Week

Search Criteria:

UPC: 723764385090
Starting week: 01/11/2013
Week ending: 01/11/2013

Transaction History:

PURCHASE 01/11/2013 259 140 2172

Transaction Detail (DCR):

PURCHASE 259-140-2172 CLIENTELE
MO 71765885 05:28 PM 01/11/13
MGR#: 71765885

BARCODE: 9301125914021727102

PURCHASE MERCHANDISE

SML LTHR GDS 23.19
723764384970 326/048
ORIG 65.00/TODAY'S PRICE 65.00
NEW PRICE \$28.99
20% OFF CPN
CRL 0521433580013

SML LTHR GDS 23.19
723764384970 326/048
ORIG 65.00/TODAY'S PRICE 65.00
NEW PRICE \$28.99
20% OFF CPN
CRL 0521433580053

SML LTHR GDS 23.19
723764385168 326/048
ORIG 65.00/TODAY'S PRICE 65.00
NEW PRICE \$28.99
20% OFF CPN
CRL 0521433581022

SML LTHR GDS 23.19
723764385731 326/048
ORIG 65.00/TODAY'S PRICE 65.00
NEW PRICE \$28.99
20% OFF CPN
CRL 0521433580012

SML LTHR GDS 23.19
723764385731 326/048
ORIG 65.00/TODAY'S PRICE 65.00

NEW PRICE \$28.99
20% OFF CPN
CRL 0521433580041

SML LTHR GDS 23.19
723764385731 326/048
ORIG 65.00/TODAY'S PRICE 65.00
NEW PRICE \$28.99
20% OFF CPN
CRL 0521433580029

SML LTHR GDS 23.19
723764385670 326/048
ORIG 65.00/TODAY'S PRICE 65.00
NEW PRICE \$28.99
20% OFF CPN
CRL 0521433580042

SML LTHR GDS 23.19
723764385670 326/048
ORIG 65.00/TODAY'S PRICE 65.00
NEW PRICE \$28.99
20% OFF CPN
CRL 0521433580003

SML LTHR GDS 11.99
723764383911 326/048
ORIG 25.00/TODAY'S PRICE 25.00
NEW PRICE \$14.99
20% OFF CPN
CRL 0521433580034

SML LTHR GDS 11.99
723764383911 326/048
ORIG 25.00/TODAY'S PRICE 25.00
NEW PRICE \$14.99
20% OFF CPN
CRL 0521433580035

SML LTHR GDS 11.99
723764385144 326/048
ORIG 35.00/TODAY'S PRICE 35.00
NEW PRICE \$14.99
20% OFF CPN
CRL 0521433580006

SML LTHR GDS 11.99
723764385120 326/048
ORIG 35.00/TODAY'S PRICE 35.00
20% OFF CPN
NEW PRICE \$14.99
CRL 0521433580030

SML LTHR GDS 11.99
723764385632 326/048
ORIG 35.00/TODAY'S PRICE 35.00
NEW PRICE \$14.99
20% OFF CPN
CRL 0521433580019

Transaction History: Export to Printer

Page 3 of 7

SML LTHR GDS 19.99
 723764385120 326/048
 ORIG 35.00/TODAY'S PRICE 35.00
 NEW PRICE \$14.99
 20% OFF CPN
 CRL 0521433580036

SML LTHR GDS 19.19
 723764385090 326/048
 ORIG 55.00/TODAY'S PRICE 55.00
 20% OFF CPN
 NEW PRICE \$23.99
 CRL 0521433580005

SML LTHR GDS 19.19
 723764385458 326/048
 ORIG 55.00/TODAY'S PRICE 55.00
 NEW PRICE \$23.99
 20% OFF CPN
 CRL 0521433580040

SML LTHR GDS 19.19
 723764385090 326/048
 ORIG 55.00/TODAY'S PRICE 55.00
 NEW PRICE \$23.99
 20% OFF CPN
 CRL 0521433580017

SML LTHR GDS 19.19
 723764385458 326/048
 ORIG 55.00/TODAY'S PRICE 55.00
 NEW PRICE \$23.99
 20% OFF CPN
 CRL 0521433580046

SML LTHR GDS 19.19
 723764385076 326/048
 ORIG 55.00/TODAY'S PRICE 55.00
 NEW PRICE \$23.99
 20% OFF CPN
 CRL 0521433580043

SML LTHR GDS 19.19
 723764385458 326/048
 ORIG 55.00/TODAY'S PRICE 55.00
 NEW PRICE \$23.99
 20% OFF CPN
 CRL 0521433580044

SML LTHR GDS 19.19
 723764385458 326/048
 ORIG 55.00/TODAY'S PRICE 55.00
 NEW PRICE \$23.99
 20% OFF CPN
 CRL 0521433580047

SML LTHR GDS 19.19
 723764385076 326/048
 ORIG 55.00/TODAY'S PRICE 55.00
 NEW PRICE \$23.99

20% OFF CPN
CRL 0521433580041

SML LTHR GDS 23.19

723764385670 326/048

ORIG 65.00/TODAY'S PRICE 65.00

NEW PRICE \$28.99

20% OFF CPN

CRL 0521433580054

SML LTHR GDS 23.19

723764385168 326/048

ORIG 65.00/TODAY'S PRICE 65.00

20% OFF CPN

NEW PRICE \$28.99

CRL 0521433580024

SML LTHR GDS 52.00

723764384994 326/048

ORIG 65.00/TODAY'S PRICE 65.00

20% OFF CPN

CRL 0521433580004

SML LTHR GDS 19.19

723764385488 326/048

ORIG 55.00/TODAY'S PRICE 55.00

NEW PRICE \$23.99

20% OFF CPN

CRL 0521433580056

SML LTHR GDS 19.19

723764385272 326/048

ORIG 55.00/TODAY'S PRICE 55.00

NEW PRICE \$23.99

20% OFF CPN

CRL 0521433580010

SML LTHR GDS 19.19

723764385533 326/048

ORIG 55.00/TODAY'S PRICE 55.00

NEW PRICE \$23.99

20% OFF CPN

CRL 0521433580077

SML LTHR GDS 19.19

723764385472 326/048

ORIG 55.00/TODAY'S PRICE 55.00

20% OFF CPN

NEW PRICE \$23.99

CRL 0521433580011

SML LTHR GDS 19.19

723764385748 326/048

ORIG 55.00/TODAY'S PRICE 55.00

NEW PRICE \$23.99

20% OFF CPN

CRL 0521433580065

SML LTHR GDS 19.19

723764385687 326/048

Transaction History: Export to Printer

Page 5 of 7

ORIG 55.00/TODAY'S PRICE 55.00
 NEW PRICE \$23.99
 20% OFF CPN
 CRL 0521433580014

SML LTHR GDS 19.19
 723764385458 326/048
 ORIG 55.00/TODAY'S PRICE 55.00
 NEW PRICE \$23.99
 20% OFF CPN
 CRL 0521433580033

SML LTHR GDS 19.19
 723764385748 326/048
 ORIG 55.00/TODAY'S PRICE 55.00
 NEW PRICE \$23.99
 20% OFF CPN
 CRL 0521433580051

SML LTHR GDS 19.19
 723764385458 326/048
 ORIG 55.00/TODAY'S PRICE 55.00
 NEW PRICE \$23.99
 20% OFF CPN
 CRL 0521433580038

SML LTHR GDS 19.19
 723764385540 326/048
 ORIG 55.00/TODAY'S PRICE 55.00
 NEW PRICE \$23.99
 20% OFF CPN
 CRL 0521433580050

SML LTHR GDS 19.19
 723764385601 326/048
 ORIG 55.00/TODAY'S PRICE 55.00
 NEW PRICE \$23.99
 20% OFF CPN
 CRL 0521433580032

SML LTHR GDS 19.19
 723764385441 326/048
 ORIG 55.00/TODAY'S PRICE 55.00
 NEW PRICE \$23.99
 20% OFF CPN
 CRL 0521433580055

SML LTHR GDS 11.99
 723764385265 326/048
 ORIG 35.00/TODAY'S PRICE 35.00
 20% OFF CPN
 NEW PRICE \$14.99
 CRL 0521433580037

SML LTHR GDS 11.99
 723764385137 326/048
 ORIG 35.00/TODAY'S PRICE 35.00
 NEW PRICE \$14.99
 20% OFF CPN
 CRL 0521433580066

Transaction History: Export to Printer

Page 6 of 7

SML LTHR GDS 11.99
 723764385205 326/048
 ORIG 35.00/TODAY'S PRICE 35.00
 NEW PRICE \$14.99
 20% OFF CPN
 CRL 0521433580023

SML LTHR GDS 10.39
 723764385625 326/048
 ORIG 30.00/TODAY'S PRICE 30.00
 20% OFF CPN
 NEW PRICE \$12.99
 CRL 0521433580049

SML LTHR GDS 10.39
 723764385625 326/048
 ORIG 30.00/TODAY'S PRICE 30.00
 NEW PRICE \$12.99
 20% OFF CPN
 CRL 0521433580025

SML LTHR GDS 10.39
 723764385625 326/048
 ORIG 30.00/TODAY'S PRICE 30.00
 NEW PRICE \$12.99
 20% OFF CPN
 CRL 0521433580048

SML LTHR GDS 10.39
 723764385557 326/048
 ORIG 30.00/TODAY'S PRICE 30.00
 NEW PRICE \$12.99
 20% OFF CPN
 CRL 0521433580031

SML LTHR GDS 10.39
 723764385557 326/048
 ORIG 30.00/TODAY'S PRICE 30.00
 NEW PRICE \$12.99
 20% OFF CPN
 CRL 0521433580007

SML LTHR GDS 10.39
 723764385403 326/048
 ORIG 30.00/TODAY'S PRICE 30.00
 NEW PRICE \$12.99
 20% OFF CPN
 CRL 0521433580039

SML LTHR GDS 10.39
 723764385564 326/048
 ORIG 30.00/TODAY'S PRICE 30.00
 NEW PRICE \$12.99
 20% OFF CPN
 CRL 0521433580045

SML LTHR GDS 10.39
 723764385397 326/048
 ORIG 30.00/TODAY'S PRICE 30.00

Transaction History: Export to Printer

Page 7 of 7

NEW PRICE \$12.99
20% OFF CPN
CRL 0521433580029

SBL LTHR GDS 10.39
723764385397 326/048
ORIG 30.00/TODAY'S PRICE 30.00
NEW PRICE \$12.99
20% OFF CPN
CRL 0521433580026

SBL LTHR GDS 10.39
723764385410 326/048
ORIG 30.00/TODAY'S PRICE 30.00
NEW PRICE \$12.99
20% OFF CPN
CRL 0521433580008

50 ITEMS SUBTOTAL 879.51
9.000% IL TAX 79.16
PURCHASE TOTAL 958.67
TOTAL 958.67

MACY'S GIFT CARD 800.00
AUTH 0 ██████████ S
MACY'S CHARGE 58.67
000000 XXXXXXXXXXXXXXXXXXXX ██████████ K
EASY EXCHANGE CARD (REC) 100.00
AUTH 0 ██████████ S

LOYALTY NUMBER ██████████

Transaction History: Export to Printer

Page 1 of 1

Macy's UPC/Week

Search Criteria:

UPC: 80388668988
Starting week: 01/11/2013
Week ending: 01/11/2013

Transaction History:

PURCHASE 01/11/2013 14 70 9744

Transaction Detail (DCR):

PURCHASE 014-0070-9744
71439092 12:17 PM 01/11/13

BARCODE: R3011014007097447103

PURCHASE MERCHANDISE

TR/PRO JWRLY 5.62
885043672657 288/043
ORIG 22.50/TODAY'S PRICE 5.62
CRL 0522665326282

TR/PRO JWRLY 6.50
80388668988 288/025
ORIG 26.00/TODAY'S PRICE 6.50
CRL 0522665326283

TR/PRO JWRLY 6.50
80388668995 288/025
ORIG 26.00/TODAY'S PRICE 6.50
CRL 0522665326284

3 ITEMS SUBTOTAL 18.62
6.000% MD TAX 1.12
PURCHASE TOTAL 19.74

TOTAL 19.74

VISA 19.74

141576 0216 10000 [REDACTED] S

Transaction History: Export to Printer

Page 1 of 1

Macy's UPC/Week

Search Criteria:

UPC: 885043674186
Starting week: 01/10/2013
Week ending: 01/12/2013

Transaction History:

PURCHASE 01/12/2013 609 40 4614
RETURN 03/27/2013 610 50 8798

Transaction Detail (DCR):

PURCHASE 609-0040-4614
71654770 10:14 AM 01/12/13

BARCODE: R3012609004046147106

POURCHASE MERCHANDISE

YTB/IMPL3 JWL 7.99
694130324930 286/000
ORIG 32.00/TODAY'S PRICE 7.99
CRL 0522653524858

STATUS JWLKY 45.00
885043674186 294/020
ORIG 45.00/TODAY'S PRICE 45.00
CRL 0522878038652

2 ITEMS SUBTOTAL 52.99
8.650% KS TAX 4.58
PURCHASE TOTAL 57.57

TOTAL 57.57

VISA 57.57
034598 0915 100000 [REDACTED] S

Macy's UPC/Week

Search Criteria:

UPC: 848767000600
Starting week: 01/10/2013
Week ending: 01/12/2013

Transaction History:

PURCHASE 01/11/2013 97 14 6204
RETURN 01/18/2013 87 34 875

Transaction Detail (DCR):

PURCHASE 097-0014-6204
71033767 08:05 PM 01/11/13

BARCODE: R3011097001462047106

PURCHASE MERCHANDISE

INC JEWELRY 13.25
848767000570 297/015
ORIG 26.50/TODAY'S PRICE 26.50
50% OFF
CRL 0522503923710

INC JEWELRY 17.25
848767000600 297/020
ORIG 34.50/TODAY'S PRICE 34.50
50% OFF
CRL 3522694908626

CC CASHMERE 39.99
766360432621 893/020
ORIG 119.00/TODAY'S PRICE 39.99
CRL 0601627300544

3 ITEMS SUBTOTAL 70.49
5.000% VA TAX 3.52
PURCHASE TOTAL 74.01

TOTAL 74.01

VISA 74.01
005591 2915 100000 [REDACTED] S

Macy's UPC/Week

Search Criteria:

UPC: 98686403895
Starting week: 01/11/2013
Week ending: 01/11/2013

Transaction History:

PURCHASE 01/11/2013 75 96 2226
RETURN 01/12/2013 75 94 2557

Transaction Detail (DCR):

PURCHASE 075-0096-2226
10090693 03:00 PM 01/11/13

BARCODE: R3011075009622267102

PURCHASE MERCHANDISE

STATUS JWLRY 42.00
98686403895 294/008
ORIG 42.00/TODAY'S PRICE 42.00
CRL 0522331728802

STATUS JWLRY 29.00
98686384668 294/008
ORIG 29.00/TODAY'S PRICE 29.00
CRL 0522331728803

STATUS JWLRY 29.00
98686379671 294/008
ORIG 29.00/TODAY'S PRICE 29.00
CRL 0522331728804

3 ITEMS SUBTOTAL 100.00
7.0008 NJ TAX 7.00
PURCHASE TOTAL 107.00

TOTAL 107.00

CASE 7.00
MACY'S GIFT CARD 100.00
REF# 0 [REDACTED] S

Macy's UPC/Week

Search Criteria:

UPC: 98686056350
Starting week: 01/11/2013
Week ending: 01/11/2013

Transaction History:

PURCHASE 01/11/2013 169 30 833

Transaction Detail (DCR):

PURCHASE 169-0030-0833
71972870 02:08 PM 01/11/13

BARCODE: R3011169003008337104

PURCHASE MERCHANDISE

STATUS JEWELRY #GH 35.00
98686056350 294/008
ORIG 35.00/TODAY'S PRICE 35.00
CRL 0522553795596

6.000% PA TAX 2.10
PURCHASE TOTAL 37.10

TOTAL 37.10

MACY'S AMEX 37.10

0 0914 1000000 [REDACTED] S

LOYALTY NUMBER [REDACTED]

Macy's UPC/Week

Search Criteria:

UPC: 98686403895
Starting week: 01/11/2013
Week ending: 01/11/2013

Transaction History:

PURCHASE 01/11/2013 75 96 2226
RETURN 01/12/2013 75 94 2557

Transaction Detail (DCR):

PURCHASE 075-0096-2226
10090693 03:00 PM 01/11/13

BARCODE: R3061075009622267102

PURCHASE MERCHANDISE

STATUS JWLRY 42.00
98686403895 294/008
ORIG 42.00/TODAY'S PRICE 42.00
CRL 0522331728802

STATUS JWLRY 29.00
98686384668 294/008
ORIG 29.00/TODAY'S PRICE 29.00
CRL 0522331728803

STATUS JWLRY 29.00
98686379671 294/008
ORIG 29.00/TODAY'S PRICE 29.00
CRL 0522331728804

3 ITEMS SUBTOTAL 100.00
7.0000 NJ TAX 7.00
PURCHASE TOTAL 107.00

TOTAL 107.00

CASH 7.00
MACY'S GIFT CARD 100.00
AUTH # [REDACTED]

Macy's UPC/Week

Search Criteria:

UPC: 11996612887
Starting week: 01/11/2013
Week ending: 01/11/2013

Transaction History:

PURCHASE 01/11/2013 408 21 3342

Transaction Detail (DCR):

PURCHASE 408--0021-3342
10389004 08:54 PM 01/11/13

BARCODE: R3011408002133427106

PURCHASE MERCHANDISE

BRND NEO JLRY 18.37
11996612887 280/015
ORIG 24.50/TODAY'S PRICE 18.37
CRL 0522423107679

7.500% CA TAX 1.38
PURCHASE TOTAL 19.75

TOTAL 19.75

MACY'S CERGE 19.75

XXXXXXXXXXXXXXXXXXXX S

LOYALTY NUMBER

Transaction History: Export to Printer

Page 1 of 2

Macy's UPC/Week

Search Criteria:

UPC: 11996608545
Starting week: 01/11/2013
Week ending: 01/11/2013

Transaction History:

PURCHASE 01/11/2013 431 75 2740

Email History:

RECEIPT EMAILED 01/11/2013 03:15 PM
ZOS rhea_022@yahoo.com
(SUCCESSFUL)

Transaction Detail (DCR):

PURCHASE 431-3075-2740
MO 10422833 12:15 PM 01/11/13
REF#: 10422833

BARCODE: R3011431007527407106

PURCHASE MERCHANDISE

STATUS JWLRY 12.00
885043648408 294/037
ORIG 48.00/TODAY'S PRICE 12.00
CRL 0522042068549

BRND NEO JLRY 7.12
11996608545 280/016
ORIG 38.00/TODAY'S PRICE 28.50
75% OFF
CRL 0522042068551

TR/PRO JWRLY 7.99
788602008517 288/062
ORIG 26.00/TODAY'S PRICE 7.99
CRL 0522042068552

YFH/IMPLS JWL 7.99
748838151968 286/020
ORIG 25.00/TODAY'S PRICE 7.99
CRL 0522042068550

TR/PRO JWRLY 3.37
728502716887 288/062

Transaction History: Export to Printer

ORIG 18.00/TODAY'S PRICE 13.50
75% OFF
CRL 0522042068548

INC JEWELRY 9.87
630726411958 297/010
ORIG 39.50/TODAY'S PRICE 39.50
75% OFF
CRL 0522042068547

6 ITEMS SUBTOTAL 48.34
8.500% CA TAX 4.11
PURCHASE TOTAL 52.45

TOTAL 52.45

MACY'S CHARGE 52.45
000000 XXXXXXXXXXXXXXXXXXXX E

LOYALTY NUMBER *****

Macy's UPC/Week

Search Criteria:

UPC: 848767000600
Starting week: 01/11/2013
Week ending: 01/11/2013

Transaction History:

PURCHASE 01/11/2013 776 92 1092

Transaction Detail (DCR):

PURCHASE 776-0092-1092
71876402 08:59 PM 01/11/13

BARCODE: K3011776009210927106

PURCHASE MERCHANDISE

INC JEWELRY 31.05
- 848767000600 297/020
ORIG 34.50/TODAY'S PRICE 34.50
10% OFF CPN
CRL 0522340071823

7.000% FL TAX 2.17
PURCHASE TOTAL 33.22

TOTAL 33.22

CASH 100.00
CHANGE 66.78

Macy's UPC/Week

Search Criteria:

UPC: 762670571463
Starting week: 01/11/2013
Week ending: 01/11/2013

Transaction History:

PURCHASE 01/11/2013 608 450 941
RETURN 02/13/2013 608 450 3294

Transaction Detail (DCR):

PURCHASE 608-0450-0941
71640596 06:47 PM 01/11/13

BARCODE: R3011608045009417106

PURCHASE MERCHANDISE

FASHN TRND HBG 108.00
762670046893 312/010
ORIG 108.00/TODAY'S PRICE 108.00
CRL 0522828665334

STR IMPLS HBG 90.00
762670571463 338/004
ORIG 90.00/TODAY'S PRICE 90.00
CRL 0522531426993

2 ITEMS SUBTOTAL 198.00
8.600% MO TAX 17.03
PURCHASE TOTAL 215.03

TOTAL 215.03

M/C 215.03
64966Z 1215 10000 [REDACTED] 5

Macy's UPC/Week

Search Criteria:

UPC: 644626530819
Starting week: 01/11/2013
Week ending: 01/11/2013

Transaction History:

PURCHASE 01/11/2013 @ 93 9121
RETURN 01/13/2013 @ 67 5590

Transaction Detail (DCR):

PURCHASE 008-0093-9121
71129965 01:38 PM 01/13/13

BARCODE: R3011008009391217108

PURCHASE MERCHANDISE

TR/PRO JWRLY \$GR 10.20
644626530741 288/020
ORIG 16.00/TODAY'S PRICE 12.00
15% OFF CPN
CRL 0522541708164

TR/PRO JWRLY 22.31
644626530819 288/020
ORIG 35.00/TODAY'S PRICE 26.25
15% OFF CPN
CRL 0522541708165

TR/PRO JWRLY 19.12
644626530840 288/020
ORIG 30.00/TODAY'S PRICE 22.50
15% OFF CPN
CRL 0522541708166

3 ITEMS SUBTOTAL 51.63
7.000% NJ TAX 3.61
PURCHASE TOTAL 55.24

TOTAL 55.24

MACY'S GIFT CARD 40.58
AUTH 0 [REDACTED] S
EASY EXCHANGE CARD (EEC) 14.36
AUTH 0 [REDACTED] S

Macy's UPC/Week

Search Criteria:

UPC: 47852983372
Starting week: 01/11/2013
Week ending: 01/12/2013

Transaction History:

PURCHASE 01/12/2013 15 32 8848
RETURN 01/14/2013 15 32 9155

Transaction Detail (DCR):

PURCHASE 015-0032-8848
71820553 01:50 PM 01/12/13

BARCODE: R3012015003288487107

PURCHASE MERCHANDISE

TIGHTS #N# 7.99
47852983983 322/014
ORIG 40.00/TODAY'S PRICE 9.99
20% OFF CPN
CRL 0522843589416

TIGHTS #N# 25.20
47852982863 322/014
ORIG 45.00/TODAY'S PRICE 31.50
20% OFF CPN
CRL 0522843589417

TIGHTS #N# 21.28
47852983372 322/014
ORIG 38.00/TODAY'S PRICE 26.60
20% OFF CPN
CRL 0522843589418

TIGHTS #N# 7.99
47852983556 322/014
ORIG 40.00/TODAY'S PRICE 9.99
20% OFF CPN
CRL 0522843589415

4 ITEMS SUBTOTAL 62.46
 PURCHASE TOTAL 62.46

 TOTAL 62.46

 MACY'S GIFT CARD 30.00
ALTE 0 ██████████

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE**

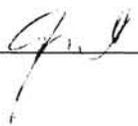
STATE OF WASHINGTON,)	
)	
Respondent,)	
)	NO. 71530-5-I
v.)	
)	
KIMBERLY ANN BAILEY,)	
)	
Appellant.)	

DECLARATION OF DOCUMENT FILING AND SERVICE

I, MARIA ARRANZA RILEY, STATE THAT ON THE 29TH DAY OF SEPTEMBER, 2014, I CAUSED THE ORIGINAL **OPENING BRIEF OF APPELLANT** TO BE FILED IN THE **COURT OF APPEALS – DIVISION ONE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

[X] KING COUNTY PROSECUTING ATTORNEY	(X)	U.S. MAIL
APPELLATE UNIT	()	HAND DELIVERY
KING COUNTY COURTHOUSE	()	_____
516 THIRD AVENUE, W-554		
SEATTLE, WA 98104		
[X] KIMBERLY ANN BAILEY	(X)	U.S. MAIL
8900 AURORA AVE N #132	()	HAND DELIVERY
SEATTLE, WA 98103	()	_____

SIGNED IN SEATTLE, WASHINGTON THIS 29TH DAY OF SEPTEMBER, 2014.

X _____ 

Washington Appellate Project
701 Melbourne Tower
1511 Third Avenue
Seattle, WA 98101
Phone (206) 587-2711
Fax (206) 587-2710