

STATEMENT OF D. DIAMONTE

Given to the Marshall City Police on November 9, 2001, as given and sworn before Officer Charles Smith (Star #4540).

PRESENT:

**Officer Charles Smith (Interviewer), Marshall City Police Department.
Thompson County, State of Marshall, and**

D. Diamonte.

Officer Smith: For the record, this is the voluntary statement of D. Diamonte, concerning a complaint that the interviewee has regarding a person named Terry Gaffner who allegedly used the interviewee's credit card on November 4, 2001, without permission. Correct?

Diamonte: Yes. Not allegedly, but did use.

Q: As you can see, a court reporter is taking down everything that we say, so please no shaking or nodding of your head as we need audible answers to my questions. If you do not hear or understand a question, feel free to ask me to repeat or rephrase my question. If you answer a question we may assume that you heard the question clearly and understood the question fully. O.K.? This will be typed up for you to read and review, and you can then sign it. If you don't understand a question, stop me and ask me to repeat it or rephrase it. And, anytime you wish to leave for a personal break or to get a cup of coffee, we'll take a break. O.K.?

A: Yes.

Q: D. Diamonte. D. What does D. stand for?

A: D. That's it. That's my name. No quotes. Just D. with a period.

Q: Is D. Diamonte your legal name?

A: Yes, I changed my name legally when I came to Marshall City five years ago. It's my professional name, from when I was active in theater. I am now a television executive in training, working as an assistant producer of local programs. The name thrust on me when I was like, too young, you know, to know my own name, was not a true caption of the picture of my life. So, when I left Spring Hill College, and came to – I studied acting, and grew up in Dallas, you know, like the Big "D" – but I could not relate to "Big D" so D. would be just right. Like, who needs to be called "Big"? Henceforth, I said, D. I am D. when I came to

Marshall City, I knew, I really mean this, like. D. Was me. A good professional name, don't you

Q: Ah, we are here because you....

A: This gypsy scumbag stole my credit card, my stereo, my jewelry and ring and stuff, you know? I work and save, I really mean this, I by getting my high school GED certificate and going to college and not getting married or having children in or out of wedlock like some people I know. I am, like, thirty, you know, and never in trouble. And then I cam to Marshall City....

Q: Calm down. Wait. Just tell me what happened.

A: My apartment was broken into, and all my stuff, like, messed up, and my stereo and jewelry, and now I find out my credit card, are taken, but no doors are broken, no windows are broken, the place is intact except that it is trashed, and at first I think that Terry Gaffner or someone who had a key could get in, and besides me there is nobody else not even the landlord who has a key, except the gypsy, so you know who I am talking about – this is not a case of someone just leaving a door unlocked so strangers can walk right on in, but a roommate who is a scam artist and a thief.

Q: One thing at a time, please. When was your apartment broken into?

A: Last week, on Friday, November 2, -- well, the next morning, so it was November 3, really, -- except that when I go to make a claim for insurance they tell me I need a police report, which I was about to come in on, when I find out that the scumbag uses my credit card to pay for repairs to the bike, which were not my fault, I mean most of the repair bill was for some things which were not my fault, but were Terry's fault. But Terry wanted to stick me with the repair of things which were not due to me, and would not have admitted to liability except that I knew better and insisted, so I find out, like yesterday, that Terry uses my credit card and my identification to pay for the bike repairs, and I gave no permission to use the card for \$2,000. I have no credit left on that card. That

Q: One thing at a time. Where do you live?

A: In my apartment.

Q: Yes. I mean, what is the address there?

A: My apartment? That's 707 Lake Street. Second floor apartment. This is three blocks over from Oz's.

Q: Oz's?

A: The repair place, the motorcycle shop repair place. Oz's repairs. Which belongs to Oz Harter, who called me this morning and tells me what happened, and who is very angry as Terry has the bike, and Oz has not been paid, and is looking to me, but no way Jose. I cancelled the payment. Oz told me to make sure I filed a complaint.

Q: Who used your credit card and identification to pay for the repairs?

A: Terry Gaffner, who lived at my same address, 707 Lake, second floor, but who moved out, and I am not sure where to, though I am pretty sure it is back across the way in the apartment across from me, at Crocker McGrath's, at 715 Lake Street, second floor.

Q: Terry Gaffner? So you know this person to identify

A: Sure. Terry moved into my apartment, like, in the beginning of May, this year, 2001. I mean I need the money but made a mistake taking rent from . . . because work was not coming in, acting jobs, and the summer stock season did not start yet, so I am still in town, though I go to Rhode Island for July and August, for summer stock there, and I need someone to keep an eye on the apartment and help with the rent, you know? See, I first met or really just saw Terry as someone here and there I know from a couple of parties, around the Marshall City theater scene. You know what I mean? Terry worked at the Fossier puppet theater, tech crew. And Crocker McGrath who lives across the way is putting up with Terry on the couch, and tells me Terry would move in with me and pay rent for the little room,

So, Terry like needed to move out, and was living across the way with Crocker McGrath, and Crocker has no room to put up with Terry, and introduces us, knowing I needed some help with the rent, and would be out of town for a couple of months in the summer. Terry didn't have much stuff and took the little room, which is like a small study, but has a studio couch, for \$250 a month, which was a good rent, too. My rent is \$400, but I am responsible for the lease, and -- supply and demand -- it was not offered as a 50-50 split, I never said 50-50, so why get upset? The room is furnished, a desk and a couch and lamps. I also did not ask for security deposit or a final month's rent up-front or a lease. You know, we're all theater people, which I thought could trust each other. Stupid, right?

So, we got along, like, O.K. Terry was not a slob or a neat freak or anything so, like, I thought everything was fine. I go to Rhode Island for two months of summer stock, thank the sky-blue heavens, and come back after Labor Day weekend. But Terry is not around, just coming and going, and weird hours, and behaving like as if doing drugs. So, I ask, and Terry says I should stop stalking. Stalking? No explanation, until I find out Terry is working a second job in the day, and is ready to fall over. Anyway, Terry virtually gives me the day job at the TV station then wants it back.

Q: Did you ever see Terry have drugs or use drugs?

A: No, not directly; but I can tell when people are using drugs. I know drugs. I do not do drugs, you know; but I know druggies because of, like, the way they look at you or talk or move. I mean, Terry is staying with Crocker who is, known all over town as a drug user. Two birds of feather, and Terry stays over there sometimes all night, so what do you think? Terry does a lot of weird stuff, like tracing genealogy, and believing that you can tell the fortune with cards. Terry gets me to come up with information on my family tree, and then does nothing about tracing my roots. When I came back from Rhode Island I was supposed to get a family chart going back a few generations, because I spent a lot of time with Terry one night coming up with family names and birthdays and stuff. What a waste of my time.

Q: O.K., Please. Why don't we concentrate on why you're here?

A: Whatever, I can tell you all sorts of stuff about Terry though, if you ever need. Like, Terry is probably illegal in this country, and sometimes mentioned being from Prague, but sometimes speaks with an accent and sometimes doesn't, which could mean an affectation for professional purposes, or maybe Terry has the ability to do a good American accent. When Terry gets, like, excited, that's when the accent is most pronounced, so draw your own, you know, conclusions. Who knows? Terry once told me, "I come from gypsy stock, from Prague and before that Hungary. But you look at Terry, and you would not think"

I mean, here I am being nice and letting Terry have the extra room for a great rent and we're being friendly and then all of a sudden, weirdness, cut-off. It was rude.

Anyway, last week, ah, November 2, Friday night, I go to my friend's birthday party about 6:00, who you ought to recognize as she's a pretty famous extra in film and television. She was like recently a juror in an episode of The Practice.

Anyway, Terry was still home when I left, but has the night off and said something about other plans later that night. I thought it was funny because Terry always went to these theater parties, But, I went alone. That also was rude, I think.

So, I came home from the party at about 1:30 a.m., and I find the door is partly open, and my place is torn up. I see right away that my jewelry is gone, including my lucky ring. It has a real one-carat diamonte in it, and I wear it on all my auditions. I got it from QVC on TV, you know, with the money I made from my first film. I paid \$800 plus tax for it, since it was real gold too.

Q: Wait. What's a diamonte?

A: Ah. You know. Like a diamond, but not. Like a faux diamond, very

excellent. You can get them, nice, on QVC. Don't you watch television?

So I was in, like, total panic, I mean it. And Terry came home a little after, like a half hour. Terry's real calm, like not shocked or anything. Now I know why. Terry says all that is missing is a jar of pennies. I am missing jewelry and my stereo. My lucky diamante ring worth \$800 is gone out of my dresser. Well, I have renter's insurance, but this is all a hassle you know and the apartment has been, like, violated and I still do not feel good about being there since that happened.

Terry says to call the police, which I have already done, and this officer came and checked the place out and says there is no evidence of a forced entry, and I realize Terry left the door unlocked. Somebody walked right in, you know, just turned the doorknob and walked in and took stuff. It must have someone who lived in the complex, as we are gated. To me it is a case of irresponsibility, and I am really mad. My ring is gone, because of Terry. I still don't get what's going on there, because Terry is listed as a victim, too. But Terry has no jewelry or anything to get stolen. Terry's missing like an alarm clock and jar of pennies, I am serious here, nothing compared to my loss.

Another officer came and, like, took fingerprints, but said he would not find any prints and this was mostly for show.

I have renter's insurance, but I don't have proof of loss of stuff except the ring, so I just had to eat the loss. I am going to buy another ring.

Q: But, you're not here about the stolen ring.

A: No! I'm here because Terry used my name and my credit card and threatened my line of credit, which was shot until I cancelled that bill with Oz. See, I went to get a stereo, and I learn I am max'd out on my account, so I could not buy anything on my credit card.

See, I don't use my credit card since my last bankruptcy. I am strictly a cash and money order person; I don't even have a checking account. But, I went in to see about replacing my stereo, and was going to use my credit card because I do not have \$600 cash on hand. If I could I was all ready to buy this stereo and pay on the Visa, when they said I was denied. I have been very good paying everything on time since my last bankruptcy, and I could not imagine that I had spent so much.

Q: Last bankruptcy?

A: Yes. I filed chapter 13 the first time in 1997, and my case was dismissed for no fault of my own. I couldn't pay the filing fees. I tried again in '98, but I couldn't confirm a plan, or something like that, and the case was dismissed. Then, I had to file chapter 7 in late 1999. That was not my fault either. I filled-out the papers

wrong or something. I was pro self and the trustee claimed I was being fraudulent, hiding assets, lying about my income, running up credit cards debt right before I filed, or something. Well, I couldn't afford a lawyer, the court agreed and the prosecutors got involved somehow. It was such a mess. I got a free lawyer, agreed to drop the bankruptcy, pled to bankruptcy fraud, whatever. I have to pay all my bills now.

So anyway, I was trying to buy the stereo and the store says my credit card company won't approve, as there is already over \$2,000 on the card. I used it only a couple of times, not \$2000, and I call the credit card company and they tell me there is a \$1,990 bill from Oz, and I immediately know that my credit card was taken and used to pay for repairs to Terry's Harley, and that Terry did this even though I probably did not do more than \$200 damage to that bike, and that was all I ever told Terry I would be responsible for, and Terry must have taken the card when I was not around and used it and brought it back, you know. I blew my lid!

Q: Do you have any documents from the credit card?

A: No, I just called. Left the store when I didn't get the stereo I wanted, like I did not want a cheaper model, and I can afford it with my job now, but do not have the better line of credit yet, and called the credit agency. They told me that, on November 4, I charged, like, \$1994.00 for motorcycle repairs! I yelled into the phone, oh I never authorized anyone to put a \$1994.00 charge on that card! You know?

Terry got my credit card and social security number from my room, I can't think of anything else! Plus, I think Terry even took my ring, but I can't prove it.

So, I'm here because Oz is out of pocket, and the credit card agency won't pay, and I am missing a ring and stereo and other things.

Q: Well, what about Terry using your card, how did Terry get the card?

A: Um, I left the card in my dresser top drawer, out, and Terry used it and put it back. Or took it in the phony break-in, and then put it back after using it. Before, I gave Terry my extra card during the summer to pay for expenses that might come up, and I paid on that. That's not the point. Terry knew where the card was kept in my room.

Q: You personally are not out of pocket?

A: Not on the credit card.

Q: You did not see this happen?

A: No.

Q: How do you know this Oz?

A: I really don't, though the repair shop is, like, in the neighborhood, but Oz does not know my name from Adam and Eve, so when I call I am told Terry used the card for a lot more than my bill should have been, I say I did not authorize any such payment. But I would not know Oz from a hole in the head, you know? But Oz says to me, on the phone, you do not sound like the person who came into the shop and picked up the motorcycle.

Q: Are you and Terry still roommates?

A: No way! Terry moved out after the break-in, if it was a break-in, and never paid me any rent for, like, October or November, or for the split of this month's bills. Terry says I owe money, not the other way around, because I scratched up Terry's Harley.

Q: When was that?

A: Oh, on Halloween I borrowed Terry's Harley because I had no wheels and needed to get to an, um, audition kind of thing. The bike slid, because I think the tires were bare, and there were some scrape marks, not a lot of repairs that the bike must have needed in the first place. Terry claims the exhaust pipe and paint were trashed, but it looked fine enough to me. Terry claimed it was going to cost a lot, over fifteen hundred, like, dollars, in damages, and I think that someone is inflating that estimate and splitting the difference with Terry, and I knew it should have been maybe \$100 or \$200, which I could have paid with the credit card or some way. Now Terry has like really stiffed me on rent and bills, and tried to stick me with an inflated bill, with this credit card use - I think Terry ought to go to jail for this. Really.

Q: Anything else you would like to add?

A: No, except I can get my life back. I am not going to pay and \$1994 for those repairs.

Q: Well, all I can do is pass this along to the Thompson County State's Attorney's office. You are not out of pocket, but the lawyers know better and they will get hold of you.

A: Whatever. I like need a copy of this for, you know, the insurance. And also the report of the break-in and my missing stuff for the insurance claim.

Q: Not the credit card?

A: I am not missing my credit card. I am missing my \$800 ring and my stereo.

Q: We'll have this typed up; come back in at 5 p.m., sign this, get your copy. I will see if there is a report on the break in, and if there is not I will prepare a report based on the information you give me.

[End of statement]

I have read the above transcript and it is a true and accurate report of my statement of November 9, 2001. This statement is given as if under oath.

D. Diamonte

**Witness: Officer Charles Smith
Marshall City Police Department**