ARREST / NOTICE TO APPEAR

1. Arrest 2. N.T.A. 3. Request for Warrant 4. Request for Capias

3 JUVENILE

ADMINISTRATION

OBTS Number

Agency ORI Number: 0500900

Agency Name: Atlantis Police Department

Agency Report Number (N.T.A.'s only): 16-000489

Charge Type: Check as many as apply. ☒ 1. Felony ☐ 2. Traffic Felony ☐ 3. Misdemeanor ☐ 4. Traffic Misdemeanor ☐ 5. Ordinance ☐ 6. Other

If Weapon Seized: Enter Type NONE

Multiple Clearance Indicator

Location of Arrest (Including Name of Business)

Location of Offense (Business Name, Address): 5949 S CONGRESS AVE, ATLANTIS, FL 33462

Date of Arrest	Time of Arrest	Booking Date	Booking Time	Jail Date	Jail Time	Location of Vehicle

DEFENDANT

Name (Last, First, Middle): ERVIN, NIKOLE MELISSA RENE

Alias (Name, DOB, Soc. Sec. #, Etc.): Alias: ERVIN, NIKKI | ERVIN, NICCKI

Race (W - White, B - Black, I - American Indian, O - Oriental/Asian)	Sex	Date of Birth	Height	Weight	Eye Color	Hair Color	Complexion	Build
W	F	12/07/1981	5'04			BLONDE /	MEDIUM	

Scars, Marks, Tatoos, Unique Physical Features (Location, Type, Description)

Marital Status: M

Religion

Indication of: Alcohol Influence ☐ Yes ☒ No ☐ Unk. Drug Influence

Local Address (Street, Apt. Number) (City) (State) (Zip): 1401 CREST DR, LAKE WORTH, FL 33460

Phone: (561) 503-7254

Residence Type: 1. City 3. Florida 2. County 4. Out of State: 2

Permanent Address (Street, Apt. Number) (City) (State) (Zip): 1401 CREST DR, LAKE WORTH, FL 33460

Phone: (561) 503-7254

Address Source

Business Address (Name, Street) (City) (State) (Zip): ROSALITA`S RESTAURANT, 5949 S CONGRESS AVE

Phone: (561) 964-5747

Occupation: Manager

D/L Number, State	Soc. Sec. Number	INS Number	Place of Birth (City, State)	Citizenship
E615633819471 / FL	[redacted]		AUBURN, IN, United	US

CO-DEF

Co-Defendant Name (Last, First, Middle)	Race	Sex	Date of Birth	
				☐ 1. Arrested ☐ 2. At Large ☐ 3. Felony ☐ 4. Misdemeanor ☐ 5. Juvenile
				☐ 1. Arrested ☐ 2. At Large ☐ 3. Felony ☐ 4. Misdemeanor ☐ 5. Juvenile

JUVENILE

☐ Parent ☐ Other: ☐ Legal Custodian

Name (Last, First, Middle)

Residence Phone

Address (Street, Apt. Number) (City) (State) (Zip)

Business Phone

Notified by: (Name) Date Time

JUVENILE DISPOSITION 1. Handled/Processed within Department and Released 2. TOT JAC 3. Incarcerated

Released To: (Name) Relationship Date Time

The above address was provided by ☐ defendant and/or ☐ defendant's parents.
The child and/or parent was told to keep the Juvenile Court Clerk's Office (Phone 355-2526) informed of any change of address.
☐ Yes, by: ☐ No:

School Attended Grade

Property Crime? ☒ Yes ☐ No

Description of Property: U.S. CURRENCY

Value of Property: $30,000

CHARGE

Drug Activity: N. N/A P. Possess S. Sell B. Buy T. Traffic R. Smuggle D. Deliver E. Use K. Disperses/ Distribute M. Manufacture/ Produce/ Cultivate Z. Other

Drug Type: N. N/A A. Amphetamine B. Barbiturate C. Cocaine E. Heroin H. Hallucinogen M. Marijuana O. Opium/Deriv. P. Paraphernalia/ Equipment S. Synthetic U. Unknown Z. Other

Charge Description	Statute Violation Number	Violation of ORD #
THEFT - THEFT GRAND $20,000-$100,000	812.014(2)(B)(1)	

Drug Activity	Drug Type	Amount / Unit	Offense #	Counts	Domestic Violence	Warrant / Capias Number	Bond
	N	/	16-000489	1	☐ Y ☒ N		

Charge Description	Statute Violation Number	Violation of ORD #
THEFT - GRAND $300-$20,000	812.014(2)(C)(1)	

Drug Activity	Drug Type	Amount / Unit	Offense #	Counts	Domestic Violence	Warrant / Capias Number	Bond
	N	/	16-000489	1	☐ Y ☒ N		

Charge Description	Statute Violation Number	Violation of ORD #
FRAUD - SWINDLE OBTAIN PROPERTY $20,000 - $50,000	817.034(4)(A)(2)	

Drug Activity	Drug Type	Amount / Unit	Offense #	Counts	Domestic Violence	Warrant / Capias Number	Bond
	N	/	16-000489	1	☐ Y ☒ N		

INTAKE

Health / Apparent Physical Condition of Defendant

Any knowledge of the following: ☐ Mental ☐ Escape Risk ☐ Medication ☐ Deformities ☐ Injuries
Explain:

Check which applies: ☐ Released O.R. ☐ Released to Parent/Guardian ☐ T.O.T. County Jail ☐ Posted Bond ☐ South County Mental Health

PROPERTY - Received By | Released By | Released To

Transported By | Date Transported | Time Transported | Other

NOTICE TO APPEAR

☒ INSTRUCTION NO. 1 - Mandatory appearance in court
☐ INSTRUCTION NO. 2 - You need not appear in Court but must comply with instructions on Page 2.

Location (Court, Room)

Court Date and Time

I AGREE TO APPEAR AT THE TIME AND PLACE DESIGNATED TO ANSWER THE OFFENSE CHARGED OR TO PAY THE FINE SUBSCRIBED. I UNDERSTAND THAT SHOULD I WILLFULLY FAIL TO APPEAR BEFORE THE COURT AS REQUIRED BY THIS NOTICE TO APPEAR, THAT I MAY BE HELD IN COMTEMPT OF COURT AND A WARRANT FOR MY ARREST SHALL BE ISSUED.

Signature of Defendant (or Juvenile and Parent/Custodian) Date Signed

FILED
2008 SEP 17 PM 2:13
SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT & CRIMINAL

No Photo Available

ADMIN

HOLD for Other Agency

☐ Dangerous ☐ Resisted Arrest ☐ Suicidal ☐ Other

Signature of Arresting Officer: Sgt. 413

Name of Arresting Officer (Print): AMASON, WILLIAM I.D. # 113

Intake Deputy I.D. # Pouch #

Transporting Officer I.D. # Agency

Name Verification (Printed by Arrestee) (PRINT)

Witness here if subject signed with an "X".

PAGE 1 OF 1

☐ COURT ☐ STATE ATTORNEY ☐ AGENCY ☐ CENTRAL RECORDS ☐ JAIL ☐ CRIME ANALYSIS ☐ P. I. O. ☐ DEFENDANT

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ADMIN.

OBTS Number	PROBABLE CAUSE AFFIDAVIT			
	1. Arrest 2. N.T.A. 3. Req. for Warrant 4. Req. for Capias	3	Juv.	0

Agency ORI Number	Agency Name	Agency Report Number
FL0500900	ATLANTIS POLICE DEPARTMENT	28- 16-000489

Charge Type: Check as many as apply. ☒ 1. Felony ☐ 2. Traffic Felony ☐ 3. Misdemeanor ☐ 4. Traffic Misdemeanor ☐ 5. Ordinance ☐ 6. Other

Special Notes: See Narrative

DEF

Name (Last, First, Middle)	Alias	Rac	Sex	Date of Birth
ERVIN, Nikole Melissa		W	F	12/07/1981

CHARGES

Charge Description	Charge Description
GRAND THEFT (2 Counts)	ORGANIZED SCHEME TO DEFRAUD
Charge Description	Charge Description

VICTIM

Victim's Name (Last, First, Middle)				Rac	Sex	Date of Birth
Alizzi's Properties Inc., DBA Rosalita's Tex-Mex Grill (Jay and Brenda Alizzi)						
Local Address (Street, Apt. Number)	**(City)**	**(State)**	**(Zip)**	**Phone**	**Address Source**	
5949 South Congress Avenue	Atlantis	Fl	33462	561-967-5747	Victim	
Business Address (Name, Street)	**(City)**	**(State)**	**(Zip)**	**Phone**	**Occupation**	
5949 South Congress Avenue	Atlantis	Fl	33462	561-967-5747	Restaurant/Business	

AUSE STATEMENT

The undersigned certifies and swears that he/she has just and reasonable grounds to believe, and does believe that the above named Defendant committed the following violation of law. The Person taken into custody...

☐ committed the below acts in my presence.
☐ confessed to _____ admitting to the below facts.
☐ was observed by _____ who told _____ that he/she saw the arrested person commit the below acts.
☒ was found to have committed the below acts resulting from my (described) investigation.

On the day of 20 at ☐ AM ☐ PM (Specifically include facts constituting cause for arrest.)

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On Friday December 2, 2016, Sergeant Mahoney took a theft report from Alizzi's Inc (DBA)Rosalita's Restaurant 5949 S. Congress Ave. in the City of Atlantis, Florida. Sergeant Mahoney received information that a Night manager by the name of Nikole Melissa Ervin W/F DOB 12/7/1981 had been embezzling money from the restaurant since June of 2016, and possibly earlier. Sergeant Mahoney learned from Brenda Alizzi, restaurant co-owner, she has gone as far back as June 2016 and determined that the Night manager, Ervin, has been stealing between $200 and $500 every day she works, working five days a week. Alizzi reported that during a check of the business records she discovered Ervin was reporting several gift certificates coming in during her shift not documented on the server tickets. The gift certificates were adding up to significant amounts of money, more gift certificates than the restaurant was actually selling.

Sergeant Mahoney learned from Alizzi that between 12 midnight and 2 o'clock in the morning of the next day, after the restaurant was closed, Ervin was going into the computer on a nightly basis and manipulating/overriding cash out tickets which the servers turned in for the day's service. Alizzi also told Sergeant Mahoney that on the last night Ervin worked, November 30, 2016, she failed to make the night deposit for the cash taken in on that particular day which totaled $608.00.

On Tuesday December 6, 2016 at approximately 2 p.m., I met with Brenda Alizzi at Rosalita's Restaurant ,5949 S. Congress Ave. Atlantis, Florida. The purpose of this meeting was to go over the documents she prepared and obtain an explanation of how the business operated and what documentation showed the discrepancies she was reporting. From this meeting preliminary information was received that Nikole Ervin was a night manager for the restaurant. At or near closing time between 12 midnight and two in the morning Ervin would cash out and make Customer Check Adjustments for the day's business receipts. In doing so Ervin would add certain items such as gift certificates, coupons, a managers quality discount to the meals, in some cases discounts for birthday promotions, and other types of promotions to the customer checks completed by the servers and/or other employees of the restaurant during their daily activities. Alizzi

pointed out, again, that these check adjustments would be made between midnight and 2 o'clock in the morning, a time when no one else is in the restaurant except Nikole Ervin who was responsible for closing the business that particular day. In making these customer Check Adjustments to the Cash Outs of the employees, Ervin would pocket the manipulated cash difference the fictitious gift certificates, promotion coupons, the manager quality exceptions, and birthday promotions would generate.

Also on this date, I spoke with Brenda Alizzi regarding the banking account of Rosalita's business at Chase Bank. Alizzi stated that for revenue and financial transactions regarding the restaurant Chase Bank was used. Going over the supplied account activity of Chase Bank for the dates December 2nd through December 7th, 2016, Brenda Alizzi informed me the majority of the daily cash deposits would be dropped off by a night manager at a Chase Bank, either the one at 1300 West Lantana Road just east of I-95 by Nikole Ervin and/ or Chase Bank on Military Trail in the 4700 block by John Davis, a former manager of Rosalita's. If the night cash deposit wasn't made on the evening after closing it was required to be made the next day or as soon as possible.

Nikole Melissa Ervin signed, by initialing, a Rosalita's Daily Deposit Log indicating she prepared and deposited bag # 51661871 in the amount of $608.00 on 11/30/16. The method of deposit would be to make the deposit into a night depository at Chase Bank 1300 West Lantana Road Lantana, Florida 33462.

On the date of termination by Jay and Brenda Alizzi, Nikole Melissa Ervin stated she did, in fact, make the night deposit at Chase Bank and she had no explanation as to why it has not been received. A second explanation was also provided by Ervin in a text message to Jay Alizzi on December 2nd and 3rd of 2016. Ervin stated she was unable to make the deposit because employees at Chase Bank had suffered deaths in their families and they need two certain ranked employees to receive the deposit. I met with Chase Bank Management on March 2, 2017 for verification of this claim. Management denied having any deaths in employee's families that would curtail them from documenting deposits. If such an event did occur other employees would be made available to carry on with the banking procedures so as not to disrupt customer service.

On March 30TH, 2017, at approximately 10:45 a.m., I received authorization from Jay Alizzi, the owner and operator of Rosalita's Tex-Mex Grill 5949 S. Congress Ave. in the City of Atlantis for consent to search his cellular telephone with IMEI identification number of 355911072606188. Jay Alizzi signed a City of Atlantis Police Department Consent to Search form authorizing officers to search his Samsung cellular telephone Galaxy S7 edge. The intent of this search was to be able to "dump" any and all information regarding the text messages received by Jay Alizzi from Nicole Ervin regarding activities that occurred at the restaurant. As previously described, Officers received information from Jay Alizzi that Nicole Ervin, using telephone cellular telephone device 561-503-7254, contacted Alizzi on/or about the first part of December 2016 explaining in a text message the reason the deposit was not put in the bank was because the bank had two employees that had deaths in their families, they are short staffed and need a certain rank of people to check in the night drop. Alizzi also explained he had other communications with Nicole Ervin over a period of months where she was late making night deposits for the restaurant at the end of the day's shift. Evidence obtained in the search of the telephone confirmed the text messages.

Through lawfully subpoenaed information from Chase Bank regarding the night deposit records for Rosalita's restaurant during the month of November 2016, Your Affiant has been able to confirm each and every deposit for the month of

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November 2016 except for November 30, 2016, the deposit of $608.00, which to this date March 20th, 2018, has still not been accounted for. Jay and Brenda Alizzi originally confronted Ervin about the discrepancies in the receipt of gift certificates, customer check adjustments, and employee cash outs during the daytime hours of November 30th, 2016 prior to the deposit not being made.

On November 30th, 2016, Nikole Melissa Ervin w/f DOB 12/7/1981 was employed as manager for Alizzi's Inc. (DBA Rosalita's Tex Mex Grill) 5949 South Congress Avenue Atlantis Florida 33462. As a Manager, Ervin was entrusted with the day to day operations of the business activities of the restaurant which is inclusive of customer service, customer receipts, employee (servers) cash out checks, check adjustments, and monetary transactions required during the day's business. As a manager Ervin is also entrusted with making the day's deposits upon closing at a local bank, or as soon as possible the next day, in this case Chase Bank. Ervin failed to make the days deposit for $608.00 for the business activity of November 30th, 2016 as required in her position of trust.

The organized method to commit theft was discovered by Jay Alizzi on November 30, 2016 when John Bilella (server) was confronted by Jay Alizzi and questioned about receiving a gift certificate on November 29, 2016 from a customer for a meal he served. As a result of the questioning by Jay Alizzi, John Bilella informed Alizzi he had not received a gift certificate on November 29th and there was no gift certificate documented in his cash out on that particular day, his workday as a server at Rosalita's. In response to this questioning by owner Jay Alizzi, a second employee was identified and also questioned about receiving a gift certificate for a services rendered at Rosalita's on November 29th, 2016. The second employee identified as, Jamie Abbott, a bartender within the business of Rosalita's, also indicated that on this date she had not received a gift certificate in lieu of payment for services rendered to a customer on November 29, 2016.

Based on the information from the two employees, the Alizzi's began to check their system which controlled the server's cash outs, check adjustments, and other services tendered during the business hours. A preliminary review of the computerized system indicated discrepancies in the Cash Out Reports and Check Adjustments by management during the operating hours at Rosalita's restaurant, primarily while under the management of Nikole Ervin.

During the preliminary stage of this investigation I interviewed three (3) idenitifed witnesses other than the Alizzi's who may have knowledge of the discrepancies described. The following are synopsis of these witness statements which were sworn to as true and accurate.

Witnesses: 1) John M. Davis W/M 06/23/1975.

On December 18, 2016 approximately 12:45 p.m. I took a sworn witness statement from John M. Davis W/M DOB 6/23/1975. Davis is a former employee at Rosalita's restaurant employed as a General Manager. The following is a synopsis of the sworn to Witness Statement provided by John M Davis.

- Davis was specifically asked if he had any knowledge of employees of Rosalita's stealing money from the business. Davis explained that on one occasion he observed manager Nikole Ervin taking cash tips from fellow employees. Davis noticed the tip out amount was less than they should be. Davis confronted Ervin about his observations. Davis noted after confronting Ervin the thefts stopped.

- During the course of the interview I showed Davis numerous cash out tickets from employees within the restaurant and asked him to explain the proper procedure of making check adjustments and reconciling the receipts of that day's business. Davis stated all discounts should be indicated on

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the server's cash out tickets. At the end of the shift the manager would complete Check Adjustment forms and it wouldn't be unusual to see $20 in coupons taken in during a day's business. Davis stated these adjustments made to the server's cash out tickets should be made at the point of sale (POS). All check adjustments with the servers should be done at the time the customer receives the service. Therefore the check for the service could be closed out and reconciled at that time.

- Coupons, discounts, meal quality adjustments, and other adjustments should have been completed at the time the customer and the server were present, not when the server has completed the shift.

- Davis stated there was no reason whatsoever to make adjustments after hours.

- Davis stated he never stole money from the business. He did state on occasion an adjustment had to be made later in the day, but it was never done after working hours, primarily because the server responsible for the check was not there and the customers themselves were not present.

- At one point, I questioned Davis regarding the need to conduct between 20 and 30 check adjustments a day for all servers working at Rosalita's. Davis indicated this was unheard of. There would be no need to make that many adjustments with servers "Cash Out" checks. Davis stated that if the adjustments were made as described by this Investigator the only possibility would be the monies or cash realized from making the adjustments was going into the pocket of the person making the improper adjustments and being stolen from the business.

- Davis explained he made adjustments after hours once or twice in the five years he worked for Rosalita's but never on a daily basis. Additionally, Davis stated that over the five years he has worked as a manager for Rosalita's Tex-Mex Grill he has never failed to make a night deposit. Davis stated at one point in time he went to the local bank to make the night deposit but there was a person sleeping on the side of the bank, he didn't feel safe, so the next day he made the deposit at the bank.

- I went over the server's "Cash Out" tickets and Check Adjustment forms a second time with Davis as he reiterated that any and all discounts provided to the customer should be done so at the point of sale. Gift certificates, birthday discounts, meal quality discounts, coupons, and such should be attached to the server's "Cash Out" ticket at the end of their shift. On occasion it would be necessary to make adjustments to the servers "Cash Out" tickets because of an item forgotten to be added, a walk out by a customer, or some unusual occurrence as such, but never 20 to 40 check adjustments per night.

2) John Bilella W/M Employee/ Server with Rosalita's Tex Mex Grill

- During the witness statement provided by John Bilella on December 13th, 2016 he was questioned as to the specific incident regarding a gift certificate on November 29, 2016. Bilella

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stated that he did not receive a gift certificate from a customer on that date. He specifically recalled, because at the time of receiving a gift certificate it is a drawn out process requiring a manager and/or owners Jay or Brenda Alizzi to verify receipt of those gift certificates at the point of sale.

- Bilella also indicated that a gift certificate received for services on a particular date would have shown up in his daily cash out. John Bilella's cash out for 11/29/16 did not show the receiving of a gift certificate. Bilella further explained that during business hours if an adjustment was made to a customer's check it would have been made at the time the customer was present before the cash out is completed by the server. The check adjustment would never be made when the Server was not present and definitely not after business hours when the only employees in the business are the manager and cleaning crew. Bilella explained that for the most part on any given night, if he did work the night shift, he was done by at least 10 or 10:30 in the evening and was never in the business at 12:30 a.m. or 1:30 a.m. the next day.

I then spoke to Brenda Alizzi about the cash out ticket for John Bilella for November 29, 2016, with his shift starting at 11:43 a.m. and ending at 4:27 p.m. On John Bilella's cash out ticket for total sales was the amount of $562.22 minus $67.68 with a net amount of $494.54. Nowhere on John Bilella's cash out ticket is there an indication for a gift certificate, a 50% discount, or any type of promotion or coupon presented by a customer.

On completion of the day's work at approximately 12:32 a.m. November 30th, 2016, Manager Nikole Ervin completed a Check Adjustment report for the cash out and revenue for the date of November 29, 2016. Although John Bilella shows no gifts certificates, promotions, coupons, management quality discounts, or discounts whatsoever on his cash out ticket, on the Check Adjustment sheet for John Bilella for November 29, 2016; it indicates that a total of $86.63 was documented on the Check Adjustment Report prepared by Manager Nikole Ervin. The Check Adjustments were for meal quality issues, coupons, promos, and/or gift certificates that were allegedly tendered by John Bilella on November 29, 2016. The indication is the cash difference from the Cash Out check turned in by John Bilella was pocketed by night manager Nikole Melissa Ervin. Ervin altered the Net Employee Cash Report with fictitious discounts to cover up for the cash stolen by her from Rosalita's Tex-Mex Grill for the date of November 29th, 2016.

3) Jamie Abbott W/F Employee/ Bartender with Rosalita's Tex Mex Grill

- On December 21, 2016 at approximately 10:15 a.m., I responded to Rosalita's Tex-Mex Grill at 5949 S. Congress in the City of Atlantis for the purpose of conducting a witness interview of Abbott who is listed as a bartender at Rosalita's Tex- Mex Grill.

- Abbott was also confronted by Jay Alizzi regarding receiving a gift certificate from a customer during her schedule work hours on November 29, 2016. At the time Abbott stated she did not receive a gift certificate on that date from a customer, but was informed that on the Check Adjustment for that day, after closing, a gift certificate had been placed on her day's totals indicating she had received one. Abbott emphatically denied receiving a gift certificate from a customer on November 29, 2016.

- During the tape recorded witness statement obtained from Abbott she explained on November 29, 2016, during her working hours she did not receive a gift certificate from a customer. Abbott explained she has only received one (1) gift certificate since she's been working at Rosalita's, which has been a period of between three and four months. Abbott stated the receiving of a gift certificate entails having to contact a manager and/or the owners Jay or Brenda Alizzi and having them to

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document the receipt of the gift certificate. Abbott stated she would definitely recall receiving a gift certificate if she had gotten one on November 29, 2016.

- I went over Abbott's cash out ticket for November 29, 2016, which indicated she came to work at 11:35 a.m. and cashed out her cash drawer at 4:57 p.m.. As we were going over the cash out ticket for November 29, 2016, I noted Abbott put on her cash out she had one promo for $6.49, a 50% discount at $8.25, and a happy hour discount for $7.49. Nowhere on the cash out ticket for her days work was there any indication that she had obtained a gift certificate for that day.

- I showed Abbott the Check Adjustment report for November 29, 2016 completed on November 30, 2016 at 12:33 a.m. by Nikole Ervin. On the check adjustment report it indicates that Abbott had a 50% discount for $6.50 and a gift certificate for $20, under customer check number 1067707. Abbott reiterated she did not receive a gift certificate on November 29, 2016 that's why there's none listed on her cash out ticket.

- Abbott further advised that if any adjustments were made to a customer's check they would be made at the point of sale either by the manager on duty and/or Jay or Brenda Alizzi, the Owners of Rosalita's. No other employees had authorization to make changes to customer's checks without the permission of Jay or Brenda Alizzi.

- Abbott stated during the daytime it is usually just her as a bartender and the owners Jay and Brenda Alizzi and a couple of servers that are working. Very seldom has she had the opportunity to work with Nikole Melissa Ervin.

On December 20, 2016 approximately 10 a.m., I responded to Rosalita's Restaurant for the purpose of obtaining updated information regarding the specific date of November 29, 2016. On arrival, I met with Brenda Alizzi co-owner of Rosalita's restaurant at which time she went over certain cash out tickets and/or check adjustments for that date regarding employee Jamie Abbott.

On Jamie Abbott's cash out ticket for November 29, 2016 ending at 4:57 p.m., total sales were $679.23. Adjustments for a promo of $6.49, a 50% discount for $8.25, birthday promotion for $7.49, and happy hour sales were also captured on the cash out tickets totaling $701.46. Jamie's total sales for November 29, 2016 were $757.45 minus $95 for tips with a net of $662.45. There were no gift certificates documented on Jamie Abbott's cash out ticket on November 29, 2016, although in the Check Adjustment completed by Nikole Melissa Ervin at 12:33 a.m. the following day, an adjustment for 50% discount was indicated on Jamie's cash out ticket along with a gift certificate for $20 documented under customer check number 106770.

During the early part of January 2017, I obtained documents from Brenda Alizzi pertaining to the operation of Rosalita's Tex-Mex Grill. The documents were Check Adjustment Reports, Cash and Revenue Reports, copies of Server's Cash Out Reports, the schedule for the month of November 2016, documentation indicating which manager made night deposits for Rosalita's Restaurant during the month of November 2016, and other documentation for analysis to determine the

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above activity as described. During the latter part of January, February, March, April, May, and June 2017, I conducted an in-depth analysis of the above described reports to obtain an understanding of the receipts and revenues realized by Rosalita's Tex-Mex Grill for the month of November 2016. Using the documents provided Your Affiant prepared two spreadsheets in an effort to show the discrepancies as described by Jay and Brenda Alizzi. One spreadsheet was prepared for daily entries and Check Adjustments prepared by the managers and the second was prepared to show the results for the entire month of November 2016.

The analysis shows what was received based on the individual server's Cash Out reports compared to the Net Employee Cash Out Report and Check Adjustment Reports prepared by the managers, who were identified as John M. Davis and Nikole Melissa Ervin for the month of November 2016. The analysis will also show the amount of Check Adjustments and the cost of those check adjustments as compared to what was submitted by the servers in their Cash Out reports. The spreadsheets will also show the timeframe when these Check Adjustments were made and the manager the Check Adjustments were made by.

The analysis shows the date, the employee, the server number, and the server's cash out ticket which is the actual ticket the server brings to the manager for reconciliation. On the server's Cash Out ticket will be indicated what portions of service they provided that day which were paid by cash, credit card, and/or if the customer received a meal quality discount, birthday promotion, some other type promotion, or the receiving of a Gift Certificate, during the service provided to the customers on that date. Once the server's tickets were turned in at the end of their shift, the manager was required to reconcile the day's receipts in the Net Employee Cash and Revenue report. If there were any discrepancies during the day the manager would make Check Adjustments to those server tickets indicating what type of discrepancy it was, whether it was a meal quality issue, a birthday promotion, discount provided by management, or a gift certificate. Only the managers and/or the owner's Jay and Brenda Alizzi were allowed to receive the gift certificates and authorize the discounts provided to the customers. If an adjustment is made it is made at the time the customer is served with the knowledge of the server and the customer receiving that adjustment on their check at the time of service. In that manner the server's cash out tickets should represent what the server received that day for services.

During the analysis I compared the server's Cash Out to what was reconciled by the managers on the Cash and Revenue reports. For the most part the servers tickets, as it pertained to credit card use for payment, there were no discrepancies observed during the month of November 2016. This was not the same for the cash out tickets submitted by the servers and the reconciliation done on the Cash Out reports by the managers. On numerous occasions I observed discrepancies between what the cash out server said his/her cash amounts were in comparison to the reconciliation by managers. Further in the analysis it became apparent as to which manager was making an exorbitant amount of Check Adjustments and which manager, upon reconciling the differences between the cash turned in by the servers and the cash indicated upon reconciliation, was different. Based on my investigation I have Probable Cause to Believe that the cash difference was being pocketed or stolen by that manager, Nikole Melissa Renee Ervin.

Following Ervin's termination a detailed review and analysis of Rosalita's business records was conducted from October 2015 through November 30, 2016 which revealed thefts in excess of **$33,196.64**.

The following is an analysis of the manager's role during the month of November 2016. November 2016 was the first month to be analyzed for this was the month the discrepancies and eventual theft first came to light to the Alizzis (Owners).

John Davis was the reconciling manager for November 1st, 2nd, 3rd, 8th, 9th, 15th, 16th, and 18th. During these dates the discrepancies between server cash turned in by the server and the Managers Net Employee Cash and Revenue Report totaled $117.02 for the entire month of November 2016. Also noted in this analysis was while John Davis was the

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manager reconciling the day's receipts a total of **14** check adjustments were made to all servers working during the month of November 2016. The total amount of check adjustments made by John Davis during the month of November 2016 totaled $221.52. These were proven to be legitimate Check Adjustments during working hours when the server and customer were present.

Nikole Melissa Renee Ervin was the reconciling manager for the remaining dates in November 2016. When Nikole Ervin was reconciling manager a total of ***$5,751.71*** was indicated as discrepancies between the amounts of cash that the servers turned in at the end of their shift compared to the amount of cash indicated during the day's receipts reconciliation by Nikole Ervin acting as manager. Also noted was that during the month of November 2016 Nikole Ervin made ***733*** check adjustments to the server's checks during the month. The total Check Adjustments in revenue made by Nikole Ervin was ***$6946.06***.

As previously described the majority of these Check Adjustments were made after hours. Usually during the early morning hours of the next day when the owners of the restaurant and/or other servers and employees were not present in the restaurant to acknowledge the check adjustments made. These Check Adjustments were also made out of the presence of the customers who had been served at the restaurant in violation of normal practice.

Your affiant also completed an analysis of August 2016 in the same manner as described above and determined the following. When Nikole Ervin was reconciling manager during the month of August 2016 a total of ***$2335.72*** was indicated as discrepancies between the amounts of cash that the servers turned in at the end of their shift compared to the amount of cash indicated during the day's receipts reconciliation by Nikole Ervin acting as manager. Also noted was that during the month of August 2016 Nikole Ervin made ***300*** check adjustments to the server's checks who worked at Rosalita's Tex-Mex Grill. The total Check Adjustments in revenue made by Nikole Ervin was ***$4477.21***.

During the later part of July 2017 a meeting was held between Brenda and Jay Alizzi, Atlantis Crime Analyst Megan Legall, and this investigator. During the meeting we went over the analysis completed by Brenda Alizzi and this investigator. Brenda Alizzi stated she arrived at the totals for August and November 2016 by going over the daily totals manually with an adding machine coming up with a subtotal for each day and then adding each day to come up with a monthly total. I explained that I came up with the amounts in my analysis by completing spreadsheets and entering the data obtained from the provided documents. It was determined that the spreadsheet analysis would be more precise, but Brenda Alizzi still maintained that the restaurant had been victimized with Nikole Ervin stealing an exorbitant amount of monies from Rosalita's for over a year and a half.

Therefore, this investigator prepared spreadsheets for the time period between October 2015 through November 30, 2016 from the documents provided by Brenda and Jay Alizzi to show the discrepancies leading to the lost described. This effort called for manually inputting the data provided by their Alizzis which clearly showed the manner in which the theft occurred. During the early stages of the process, spreadsheets of all information received regarding Server tickets, Cash and Revenue reports, Check Adjustment reports were documented. This was done for the months of August and November 2016. The complete spreadsheet included customers paying with cash and credit cards. Based on the initial review of August and November 2016, this investigator determined that the manipulation of credit card paying customers was non-existent as it appeared the ability to manipulate a point of sale transaction with the customer paying with a credit card would be extremely difficult and easily exposed. Based on this review the categories for spreadsheet

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purposes were narrowed down to; Date of Service, Server Cash Out (individual server tickets) Computer Cash Out (what was documented as being received by the manager) Legitimate Gift Certificates, Promotions, and other discounts, the number of Check Adjustments made, Amount of Check Adjustment, the Manager making the Adjustment, and the working hours the adjustments were made. This was a scaled-down version of the original spreadsheet but clearly shows the same losses (theft realized) the person responsible for the date in question, and the amount of the adjustments made.

I prepared the following graph to show the theft documented from the analysis of these documents provided by Brenda Alizzi (Rosalita's) and manual input and analysis by this investigator between October 2015 and November 30, 2016.

The graph covers the time frame October 2015 through November 30th, 2016. November 2015, January and February 2016 data was not available. Column 2 shows the difference between what the servers turned in and what the manager reported in the final cash out for that server daily. Column 5 is the amount of fictitous check adjustments made by the manager to cover up the theft of the money difference from what the server turned in and what was reported.

Column 1 2 3 4 5 6

Month	**Discrepancy between Server Cash Out Ticket and Reconciliation by** Nikole Ervin as Manager.	**Gift Cert/Promo/Meal Quality Legitimate**	**# of Adjustments**	**Check Adjustment**	**Hours Adjustment Made**
2015					
October	$584.31	$5,156.12	168	$1,347.06	AH
November					
December	$3,709.96	$5,647.31	381	$5,981.47	AH
2016					
January					
February					
March	$2,345.74	$5,548.92	326	$2,309.16	AH
April	$2,392.05	$6,181.52	272	$2,412.70	AH
May	$2,440.04	$7,176.07	285	$3,205.77	AH
June	$2,484.30	$5,346.29	283	$3,121.06	AH
July	$2,696.07	$2,848.93	367	$3,213.08	AH
August	$2,335.72	$4,007.87	300	$4,477.21	AH
September	$4,155.31	$2,988.75	581	$5,304.81	AH
October	$4,301.43	$5,743.87	593	$5,980.11	AH
November	$5,751.71	$6,039.06	733	$6,946.06	AH
TOTALS	$33,196.64	$56,684.71	4289	$44,298.49	
	$33,196.64	**$56,684.71**	**4289**	**$44,298.49**	

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Between October 2015 and November 30th, 2016, Nikole Melissa Ervin made **4289** check adjustments to server's tickets in the amount of **$44,298.49** to cover up the actual cash theft in excess of **$33,196.64.** The additional **$11,101.85** in cash was also systematically and methodically stolen through the use of fictitious gift certificates, promotion coupons, manager meal quality exceptions, and birthday promotions Ervin would erroneously classify when completing the Check Adjustment Reports after business hours.

On January 23rd, 2018, 0730 hours, efforts to locate additional witnesses in this case were made. This effort led to the identity of Shaheen ZOHLGHADAR. ZOHLGHADAR worked at Rosalita's during the period described leaving in December 2016 to seek other opportunities.

On January 24th, 2018 1100 hours, on my request the previous day, ZOHLGHADAR arrived at the Atlantis Police Department for the purpose of providing a witness statement. During the tape recorded interview ZOHLGHADAR provided the following:

- ZOHLGHADAR was employed at Rosalita's restaurant from August 2015 through December 26th, 2016. ZOHLGHADAR first started as a hostess in August 2015 became a server and periodically worked the bar area once she was of age required by law. During the preliminary portion of the interview I questioned ZOHLGHADAR as to her duties and responsibilities as a server.

- ZOHLGHADAR explained she would wait the tables retaining monies until the end of the shift at which time she would turn the tickets in and "Cash Out" with one of the managers or the owners Jay and Brenda Alizzi. ZOHLGHADAR would turn in all checks including Cash payments, credit card receipts, any discounts, gift cards, and coupons presented by a customer. ZOHLGHADAR would also, as other servers did, turn in 4% of the total sales into the tip pool to be disseminated out to others assisting. The remaining tip amount would be retained. ZOHLGHADAR stated that any gift cards, coupons, meal quality, or other discounts would require the authorization of a manager or the owners and would be done in the presence of the customer so the customer would benefit from receiving the discount at the term of service.

- ZOHLGHADAR further stated she would be generally be done around 7:30 or 8:00p.m. after the evening dinner rush. ZOHLGHADAR would turn all the receipts from the day's service over to the manager. ZOLHGHADAR would never be in the restaurant after midnight when adjustments were made to her cash out checks. ZOHLGHADAR stated maybe once twice during the time frame she worked at Rosalita's did she work till midnight and that was possibly on Cinco De Mayo or some other Holiday when the business was busy. ZOHLGHADAR would average 10 (ten) tables a night. All sales tickets would be consolidated into one for cash out with the manager.

- I then showed ZOHLGHADAR spreadsheet results, along with copies of cash out tickets in her name, Cash Out Net reports, and Check Adjustments reports. The first one shown was of November 19th, 2016. I went over the server ticket with ZOHLGHADAR which she identified as hers initialing and dating the document presented. I first showed her that according to her server ticket on this date she turned in $151.32 but on the Net Employee Cash Out Report it showed that she only turned in $137.55. The server ticket also showed she had a happy hour

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discount of $10.40, but on the Check Adjustment Report prepared on 1/20/2016 at 1:43 a.m. an additional $12.99 promo was added that ZOHLGHADAR stated she did not have on the date of service. The adjustment was not made in the presence of the server nor was it made with the customer present who would benefit from the discount. ZOHLGHADAR stated she was definitely not in the restaurant at 1:43 a.m. on November 20th, 2016. I asked ZOHLGHADAR what that meant to her. She stated someone was pocketing the money, embezzling or robbing money from the business.

- I then presented Server tickets from November 22nd, 26th, and 29th, 2016. ZOHLGHADAR initialed and dated all server tickets presented indicating they were her tickets and the writing on the tickets was her handwriting. ZOHLGHADAR confirmed that the discrepancies found on her server cash out checks and those documented on the spreadsheet prepared from the Net Employee Cash Out Report and Check Adjustment report were not consistent with what she turned in at the end of her shift. ZOHLGHADAR was shocked to learn the monies were being stolen as described and asked if it was only from her server tickets. ZOHLGHADAR was advised that this was occurring on other server's tickets and it has been proven that between approximately 200 and 400 dollars per night was stolen by this method every day, possibly five days a week. ZOHLGHADAR stated at the most she would average maybe 2 check adjustments a night but never 8 or 10 which was documented on November 22nd, 2016's Check Adjustment Report.

- ZOHLGHADAR never saw anyone physically stealing money from the business. ZOHLGHADAR did note that on occasion Nikole Ervin would come into the restaurant wearing designer clothes and talking about buying a Golf cart.

Brenda Alizzi reported and the analysis clearly shows that between October 2015 and November 30th, 2016, ERVIN, Nikole Melissa engaged in a systematic and Organized Scheme to Defraud the business and committed Grand Theft in excess of **$33,196.64**. Nikole Melissa Renee Ervin, a Manager with the business, removed portions of cash turned in by servers (Waitress/Waiters) at the end of their shift and then fraudulently applied discounts to customer's tabs (checks) pocketing the overpayment for herself. As a manager Ervin was able to learn of a flaw in the Point of Sale system software utilized by Rosalita's Restaurant manipulating the Net Employee Cash Out and Check Adjustment System reports. Ervin exploited the flaw in the system developing a method in which she would make these check adjustments after hours when the server and the customer receiving the discount were not present when the changes to their customer checks (tabs) were made. The adjustments were made to conceal the theft from cash payments taken in by the servers. As the Alizzis explained, every server takes the customer orders and submits them to the restaurant for services to be rendered. When the customer is finished dining the server collects the payment. The server maintains the payment until it is reconciled with the Manager at the end of the shift when they are cashed out. The cash out process consisted of a manager generating a report showing the total sales for each server and the amount of payment to be collected by the manager, either by cash or credit card. A Net Employee Cash out Report is prepared which shows the total sales generated and the amount of payment, including cash, to be turned in. The manager then reconciles the day's receipts with the result documented on the Daily Sales Report.

Based on the "Totality of the Circumstances" described above, Your Affiant has Probable Cause to Believe that former manager Nikole Melissa Renee Ervin W/F DOB 12/7/1981 while employed at Alizzi's Properties Inc., DBA Rosalita's Tex-Mex Grill, between October 2015 and November 30th, 2016 methodically and in a systematic ongoing course of criminal conduct with intent to defraud, (Organized Scheme to Defraud) did obtain property (U.S. Currency) from Alizzi's Properties Inc., DBA Rosalita's Tex-Mex Grill valued greater than **$33,196.64** in Violation of Florida State Statute 817.034 (4)(a)(2).

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Based on the "Totality of the Circumstances" as described above, I believe Probable Cause exists to charge Nikole Melissa Ervin W/F DOB 12/07/1981, with Grand Theft (2 Counts) to wit: **NIKOLE MELISSA ERVIN** removed property (U.S. Currency) valued greater than $300.00 from the victim, Alizzi's Inc. (DBA Rosalita's Tex Mex Grill), with intent to temporarily or permanently deprive the victim, Alizzi's Inc. (DBA Rosalita's Tex Mex Grill) of the property or benefit therefrom or to appropriate the Currency to the use of **NIKOLE MELISSA ERVIN** or to the use of any other person not entitled thereto in violation of Florida State Statutes FSS 812.014(2)(c)(1) and FSS 812.014 (2)(b) 1.

Count (1), **FSS 812.014(2) (c) (1)**. On November 30th, 2016, Nikole Melissa Ervin w/f DOB 12/7/1981 was employed as manager for Alizzi's Inc. (DBA Rosalita's Tex Mex Grill) 5949 South Congress Avenue Atlantis Florida 33462. As a Manager, Ervin was entrusted with the day to day operations of the business activities of the restaurant which is inclusive of customer service, customer receipts, employee (servers) cash out checks, check adjustments, and monetary transactions required during the day's business. As a manager Ervin is also entrusted with making the day's deposits upon closing at a local bank, or as soon as possible the next day, in this case Chase Bank. Ervin failed to make the days deposit for $608.00 for the business activity of November 30th, 2016 as required in her position of trust. Ervin, with intent to temporarily or permanently deprive the victim, Alizzi's Inc. (DBA Rosalita's Tex Mex Grill) of the property or benefit therefrom removed $608.00.

Count (2), **FSS 812.014 (2) (b) 1**. Between October 2015 and November 30th, 2016 Nikole Melissa Renee Ervin w/f DOB 12/7/1981, methodically and in a systematic ongoing course of criminal conduct with intent to defraud, removed property (U.S. Currency) valued greater than **$33,196.64** from the victim, Alizzi's Inc. (DBA Rosalita's Tex Mex Grill), with intent to temporarily or permanently deprive the victim, Alizzi's Inc. (DBA Rosalita's Tex Mex Grill) of the property or benefit therefrom or to appropriate the Currency to the use of **NIKOLE MELISSA ERVIN** or to the use of any other person not entitled thereto in violation of Florida State Statute FSS 812.014(2) (c) (1).

ADMINISTRATIVE

Sworn and subscribed before me

S.t. Sean Mark
Notary Public / Clerk of Court / Police Officer

4/9/18
Date

Signature of Arresting / Investigating Officer

Sgt. William J. Amason #113
Name of Officer (Please Print)

4/9/18
Date

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