

UNITED STATES DISTRICT COURT

FILED CHARLOTTE, NC

AUG 09 2012

for the Western District of North Carolina

U.S. DISTRICT COURT WESTERN DISTRICT OF NC

United States of America

v.

Candida Mayo Figueroa

Case No. 3:12mj 00231

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 7, 2012 - July 13, 2012 in the county of Mecklenberg in the Western District of North Carolina, the defendant(s) violated:

Code Section 18 U.S.C. Section 286

Offense Description Conspiracy to Defraud the Government with Respect to Claims

This criminal complaint is based on these facts:

See attached affidavit

Continued on the attached sheet.

Complainant's signature

Special Agent Adam Jacoby Printed name and title

Sworn to before me and signed in my presence.

Date: 08/09/2012

Judge's signature

City and state: Charlotte, North Carolina

United States Magistrate Judge David S. Cayer Printed name and title

AFFIDAVIT FOR ARREST WARRANTS

I, Adam P. Jacoby, being duly sworn, depose and state the following:

I. AFFIANT'S BACKGROUND

1. I am employed as a Special Agent with the Internal Revenue Service, Criminal Investigation Division (IRS-CI) and have been so employed since September 2007. As a Special Agent, my responsibilities include the investigation of potential criminal violations of the Internal Revenue Code under Title 26 of the United States Code, along with related Title 18 and Title 31 offenses. Since becoming a Special Agent with IRS-CI, I have received training in law enforcement and investigative techniques, along with tax law and accounting principles, at the Federal Law Enforcement Training Center (FLETC) in Glynco, GA. Since completing training at FLETC, I have received ongoing field training in conducting criminal tax investigations of a variety of tax and related financial offenses, utilizing a variety of methods.
2. As a Special Agent, I have participated in numerous search warrants, arrest warrants, and seizure warrants pursuant to the investigation of violations of sections of Title 26, Title 18, and Title 31 of the United States Code.
3. Prior to becoming a Special Agent, I worked as an auditor for a public accounting firm for two years and then as a financial analyst for two publicly traded financial institutions over a five year period. I graduated from the University of Virginia with a Bachelor's Degree in History in 1998. I graduated from American University with a Master's Degree in Accounting in 2000. I earned my Certified Public Accountant (CPA) license in 2002.
4. The information contained in this Affidavit is based on my personal knowledge, information that I received from other law officers, and on information I have learned from the other sources specifically discussed herein.

II. PURPOSE OF AFFIDAVIT

5. This Affidavit is made in support of a Criminal Complaint by the United States of America against Candida Mayo Figueroa. As set forth in this affidavit, I have probable cause to believe that Candida Mayo Figueroa, resident of 7825 Royal Point Drive, Apt 102, Charlotte, NC committed a violation of Title 18 U.S.C. Section 286 (Conspiracy to Defraud the Government with Respect to Claims).
6. Since this Affidavit is being submitted for the limited purpose of establishing probable cause for the issuance of an arrest warrant for the individual listed above, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish the requisite foundation for a probable cause finding to support the issuance of an arrest warrant.

III. FACTS SUPPORTING PROBABLE CAUSE

A. BACKGROUND

7. In the 1990s, the Internal Revenue Service initiated the Individual Taxpayer Identification Number program to identify resident and nonresident alien taxpayers and efficiently process their individual income tax returns. The number assigned to an individual applicant is referred to as an Individual Taxpayer Identification Number (ITIN), and is applied for by submitting a Form W-7, Application for IRS Individual Taxpayer Identification Number (ITIN). An ITIN number is a nine digit number in the format of a social security number, the first digit is a "9," and the fourth and fifth digits range from 70 – 88, 90 – 92, or 94 -99. Only resident aliens and nonresident aliens (having earned income in the United States and therefore required to file a federal individual income tax return) who do not have and are not eligible for a social security number may apply for an ITIN. An ITIN applicant must demonstrate a tax purpose for an ITIN. A tax purpose can be shown by including an original income tax return with the application. An individual who can be claimed as a dependent on an individual income tax return has a tax purpose for an ITIN.

8. An Acceptance Agent (AA) is an individual or entity authorized by the IRS to assist individuals and other foreign persons who do not qualify for a social security number but who need a taxpayer identification number (TIN) for tax purposes. To qualify as an AA, an individual or representative of a business must complete training; submit a Form 13551, *IRS Application to Participate in the IRS Acceptance Agent Program*; and pass a suitability check by the Service. An AA ensures that the application is complete and forwards the completed form and documentation of the individual's identity and alien status to the Service.
9. A Certifying Acceptance Agent (CAA) is an Acceptance Agent who can submit a Form W-7, *Application for IRS Individual Taxpayer Identification Number*, to the IRS without documentation of the individual's identity and alien status. A CAA is responsible for reviewing the documentation of an individual's identity and alien status for authenticity, completeness, and accuracy, and is required to maintain records of the application, which are to be provided to the IRS upon request. A CAA is to retain copies of documentation for three years.
10. An individual need not be represented by an AA or a CAA. An individual can submit his/her own Form W-7, *Application for IRS Individual Taxpayer Identification Number*, with proper documentation.
11. An ITIN application is submitted in paper form to the Internal Revenue Service by mail or by personal delivery. An ITIN application may include an applicant's individual income tax returns for multiple tax years. A "Family Pack" is an ITIN package that includes multiple ITIN applications related to the same individual income tax return (e.g., an ITIN application for the primary taxpayer and an ITIN application for each dependent claimed on an individual income tax return).
12. If an ITIN application is approved, an ITIN assignment letter is sent. If the applicant is represented by an AA, the letter is sent to the applicant, not the AA. An applicant represented by a CAA can authorize the CAA to receive the ITIN assignment letter.

13. The IRS has identified ITIN tax refund schemes involving false Forms W-7 and false individual income tax forms (i.e., Forms 1040) perpetrated throughout the country. The characteristics of an ITIN tax refund scheme include:

- Filing of U.S. Individual Income Tax Returns (Forms 1040 and/or 1040EZ);
- Use of Hispanic surnames for taxpayer names;
- Use of Family Packs where the tax returns are accompanied by multiple Form W7, Applications for an ITIN, for multiple dependents being claimed on the return, who live in Mexico and for which 50% of the support was not provided by taxpayer;
- Use of numerous dependents to claim multiple dependency exemptions and increase the Additional Child Tax Credit (ACTC). The ACTC is a refundable tax credit which was intended by the U.S. Congress to lower the tax burden of families who are raising children. As a credit, the ACTC reduces a tax liability dollar for dollar. As a refundable credit, the unused portion of the ACTC may be refunded to a qualifying taxpayer. Thus, even if an individual is not required to file a federal income tax return, an individual who qualifies for the ACTC can file a proper tax return claiming the ACTC and receive a refund for the ACTC;
- Filing Status of Head of Household;
- Wage and income tax withholding that cannot be verified through contacts with the named employer or by searches in the IRS's database for matching wage information filed by the named employer;
- Paper filing, as opposed to electronic filing, of individual income tax forms (i.e., Forms 1040);

14. Your Affiant is knowledgeable of the characteristics of an ITIN tax refund scheme and has investigated similar large scale tax refund schemes and been advised of other similar large scale tax refund schemes investigated by other federal agents. Based on my personal knowledge and information shared with me by other federal agents, I know the following regarding large scale tax refund schemes:

- Typically, the tax refund claims are filed by mail, with no return address, making the returns difficult for authorities to trace.

- Tax refund claims are requests for paper federal tax refund checks to be mailed to the purported taxpayer addresses, as opposed to requesting direct deposits into a traceable bank account. Perpetrators are known to search the IRS website for the issuance of fraudulently obtained tax refund checks and, thus, know when to pick up the fraudulently obtained tax refund check from the address used.
- Addresses for clustered mailboxes are often used. Clustered mailboxes allow perpetrators to quickly pull refund checks sent to multiple addresses, minimizing the chance that a perpetrator will be seen searching the contents of the mailboxes for fraudulent tax refund checks from the U.S. Treasury Department. This investigation has revealed, for example, that as part of the scheme, participants are using several apartment unit mailboxes within the same building, which are accessed from one central location.
- Repeated use of taxpayer addresses for multiple distinct taxpayers, for which there is no history of the taxpayers actually residing.
- Fraudulently obtained tax refund checks are cashed with the assistance of conspiring bank employees or conspiring check cashers at area Money Service Businesses (MSBs) who generally do not require that the payee named on the face of the check appear at the time that the check was cashed. In some instances, false identification documents are presented.
- During searches of residences and/or businesses of known co-conspirators, the following items of evidence that was seized include: lists of stolen taxpayer names and tax identification numbers (ITINs or SSNs), paper copies of tax returns and tax documents, fraudulent tax refund checks, birth certificates, school records of children being claimed as dependents who do not reside in the United States, and U.S. currency. Investigations in the Charlotte area have resulted in numerous prosecutions of individuals.

B. SUMMARY OF CURRENT SCHEME

15. I, your Affiant, am the lead IRS Special Agent assigned to this investigation. In addition to the IRS, the other agencies assigned to this investigation are the

United States Postal Inspection Service (USPIS) and Immigration and Customs Enforcement (ICE), hereinafter referred to as the "Investigative Team."

16. In May 2012, the United States Postal Service (USPS) intercepted an extraordinarily large number of suspicious mailings from the U.S. Treasury Department appearing to contain Treasury checks going to four apartment units in close proximity to one another in Charlotte zip code 28273. The USPS alerted the USPIS because the names listed on the mail were not known to receive mail at these apartment units. A large amount of additional mail, not appearing to contain Treasury checks, from the U.S. Treasury Department has also been intercepted going to these same apartment units. The USPIS shared the mail with your Affiant.
17. In addition to the four apartments identified by USPS/USPIS, a fifth apartment was identified when your Affiant spoke with leasing officials at the Arrowood Crossing Apartment complex. Per the leasing office officials, a woman named **Candida Figueroa** leases 7825 Royal Point Drive Apt 102, in the same complex, and they have seen Figueroa pulling mail from the 2110 Arrowcreek Drive Apt 103 mailbox and the 2008 Arrowcreek Drive Apt 104 mailbox. Additionally, they stated Figueroa has paid the rent for these two units in the past.
18. Your Affiant forwarded the four apartment addresses and the apartment address of Candida Figueroa to the IRS's Scheme Development Center (SDC). The primary function of the SDC is to identify and develop evidence regarding schemes for the purpose of referring and supporting high-impact criminal tax and related financial investigations. The SDC assists field offices in identifying and assembling information on individuals and entities involved in civil and criminal noncompliance with the Internal Revenue Code (IRC) and other related statutes.
19. The SDC traced the five submitted addresses to 804 U.S. Form 1040 Individual Income Tax Returns filed with the Internal Revenue Service (hereafter, "the Forms 1040"). The Forms 1040 were filed during the calendar period from January 2012 through June 2012. The tax years for which the Forms 1040 were filed were 2008 through 2011.

20. The following table breaks down the Forms 1040 per the five addresses that were searched:

Apartment Address	# of Forms 1040	Total Refunds Claimed
2110 Arrowcreek Dr, Apt 103	236	\$1,100,648.00
2008 Arrowcreek Dr, Apt 104	153	\$713,110.00
9053 Arborgate Dr, Apt C	206	\$980,248.00
9053 Arborgate Dr, Apt E	192	\$947,557.00
7825 Royal Point Dr, Apt 102	17	\$62,621.00
	804	\$3,804,184.00

21. The SDC analyzed the Forms 1040 and concluded that the Forms 1040 fit the pattern of an ITIN tax refund scheme. (See paragraph 14 for characteristics of an ITIN tax refund scheme). Furthermore, all 804 returns contain wage and withholding information which do not match wage and withholding data per IRS records. Of those 804 returns, the IRS has conducted additional research on 46 of them, and confirmed that all 46 do in fact contain false wage and withholding information.

22. Further analysis by the investigating team revealed the following:

- Per review of public records, there is no history of the taxpayers named on the Forms 1040 actually residing at the addresses listed on the Forms 1040 U.S. Individual Income Tax Return (based on a sample of 25).
- The additional mail intercepted (see Para #16) from the U.S. Treasury contained either (a) IRS confirmation letters with the ITIN numbers issued per the W7 applications submitted, or (b) IRS letters requesting additional identification support for the W7 applications used in the scheme.
- A sampling of the additional mail intercepted (see Para# 16) contained letters to taxpayers informing them of ITINs that had been assigned to them, and several of these ITINs were included in the scheme of false claims identified by the SDC.

23. In addition to the mail containing U.S Treasury checks, the USPS intercepted several dozen letters from the IRS addressed to names known not to reside at the addresses that were searched. Your Affiant reviewed the contents of these letters. The letters are official requests from the IRS to the taxpayer requesting birth certificates and school records be provided to support the application for an ITIN for a claimed dependent. As described in Paragraphs #9 thru #11, when IRS Form W7's are submitted with a tax return, either an AA prepares the form and submits two forms of identification along with it, a CAA prepares the form certifying the proper identification has been reviewed, or the taxpayer submits the entire package on his/her own along with the required identification documents. When the IRS receives incomplete packages, the IRS sends a notice. Given what we know about the claims being filed using these addresses, the sampling mentioned in Para. # 23 which were linked to the scheme, and the lack of known history of the taxpayer residing at the address listed on the mail, it is likely these letters also pertain to fraudulent claims.
24. An address history report of **Figuroa** shows she may have lived in an apartment complex in the past which is currently involved in a separate ITIN investigation. Figuroa's employment history also links her to this other ITIN investigation. However, despite possibly living and working with suspects in another ITINs investigation, it appears at this point that the false refund schemes are separate schemes.
25. Based on my experience and information gathered by the Investigative Team, this fraudulent tax refund scheme is similar to other tax refund schemes in the Charlotte area which have been investigated in recent years, and where numerous search warrants have been conducted. Evidence seized during those search warrants included paper tax returns, electronically stored tax returns, and supporting tax return documents such as Forms W2 *Wage and Tax Statement*; lists of Hispanic names, birthdates, ITINs, and other personal identifiers; lists of mailing addresses to be utilized in the scheme; fraudulent refund checks; U.S. currency; and computers utilized to prepare tax documents as well as to check the status of filed fraudulent claims.

26. On August 8, 2012, search warrants were executed at five addresses linked to the scheme by the SDC:


- 7825 Royal Point Drive, Apt 102, Charlotte, NC, which is the residence of Candida Mayo Figueroa and other unknown conspirators.
- 2110 Arrowcreek Drive, Apt 103, Charlotte, NC, which is the residence of Noe Garcia and other unknown conspirators.
- 2008 Arrowcreek Drive, Apt 104, Charlotte, NC, which is the residence of Nancy Hernandez and other unknown conspirators.
- 9053 Arborgate Drive, Apt C, Charlotte, NC, which is the residence of Bernardo Noyola and other unknown conspirators.
- 9053 Arborgate Drive, Apt E, Charlotte, NC, which is the residence of Virginia Moreno and other unknown co-conspirators.

27. During the search warrant executed at 7825 Royal Point Drive, Apt 102, Charlotte, NC on August 8, 2012, multiple documents were found including:

- Notebooks containing names, Social Security Numbers, and addresses confirmed to be part of the false claims identified by the SDC.
- Treasury checks issued in names confirmed to be part of the scheme.
- A Fedex box containing dozens of birth certificates of Mexican origin.
- Mail addressed to other addresses linked to the scheme by the SDC as listed above.

V. CONCLUSION

28. Based upon my training and experience, it is my opinion that there is probable cause to believe Candida Mayo Figueroa and others conspired in a scheme to make false claims against the United States in violation of Title 18 U.S.C. Section 286. I therefore request that the court issue a warrant authorizing her arrest.
29. This affidavit was reviewed by Special Assistant United States Attorney Todd Kostyshak prior to being submitted to the court.




Adam P. Jacoby

Special Agent

Subscribed to and sworn before me:

This 9th day of August 2012



DAVID S. CAYER

United States Magistrate Judge