


Carrie H. Cohen

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Assistant United States Attorney

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 UNITED STATES OF AMERICA :
 v. :
 JONATHAN WALLY, :
 Defendant. :

SEALD
COMPLAINT
 Violation of
 26 U.S.C. §§ 7602(2) and 7602(1)
 and 18 U.S.C. §§ 1028(a)(7) and
 (a)(4) and 1028A
 COUNTY OF OFFENSE: NEW YORK

ROBERT D. BERANGER, being duly sworn, deposes and says that he is a Special Agent of the Internal Revenue Service ("IRS") and charges as follows:

1. From in or about 2010, up to and including in or about April 2012, in the Southern District of New York and elsewhere, JONATHAN WALLY, the defendant, willfully and knowingly did aid and assist in and procure, counsel, and advise the preparation and presentation under, or in connection with any matter arising under, the internal revenue laws, of returns, affidavits, claims, and other documents, which were fraudulent and were false as to material matters, whether or not such falsity and fraud were with the knowledge and consent of the persons authorized and required to present such returns, affidavits, claims, and documents, to wit, WALLY defrauded the IRS by causing it to issue tax refunds to other individuals based on fraudulent and false U.S. individual income tax returns ("tax returns") prepared and filed by WALLY on behalf of those taxpayers.

2. From in or about 2009, up to and including in or about January 2013, in the Southern District of New York and elsewhere, JONATHAN WALLY, the defendant, willfully and knowingly

made and subscribed returns, statements, and other documents, which contained and were verified by a written declaration that they were made under penalties of perjury, and which WALLY did not believe to be true and correct as to every material matter, to wit, WALLY defrauded the IRS by causing it to issue him tax refunds based on fraudulent and false tax returns prepared and filed by WALLY and by failing to declare certain income on those false and fraudulent tax returns.

(Title 26, United States Code, Section 7206(1).)

COUNT THREE

3. From in or about 2009, up to and including in or about April 2012, in the Southern District of New York and elsewhere, JONATHAN WALLY, the defendant, knowingly transferred, possessed, and used, without lawful authority, in and affecting interstate and foreign commerce, means of identification of other persons with the intent to commit, and to aid and abet, and in connection with, unlawful activity that constitutes a violation of Federal law, and that constitutes a felony under any applicable State and local law, and as a result of the offense obtained a thing of value aggregating \$1,000 and more during any one-year period, to wit, WALLY obtained personal identifying information of other individuals to facilitate his preparation and filing of false and fraudulent tax returns with the IRS on behalf of others and his own behalf.

(Title 18, United States Code, Section 1028(a)(7).)

COUNT FOUR

4. From in or about 2009, up to and including in or about October 2012, in the Southern District of New York and elsewhere, JONATHAN WALLY, the defendant, willfully and knowingly, in and affecting interstate and foreign commerce, did possess identification documents (other than ones issued lawfully for the use of the possessors), authentication features, and false identification documents, with the intent such documents and features be used to defraud the United States, to wit, without permission of the possessors, WALLY used what appear to be social security cards in the names of other individuals to facilitate his preparation and filing of false and fraudulent tax returns with the IRS on behalf of others and his own behalf.

(Title 18, United States Code, Section 1028(a)(4).)

COUNT FIVE

5. From in or about 2009, up to and including in or about October 2012, in the Southern District of New York and elsewhere, JONATHAN WALLY, the defendant, willfully and knowingly, during and in relation to a felony violation of Title 18, United States Code, Section 1028(a)(4), to wit, the crime charged in Count Four of this Complaint, did transfer, possess, and use, without lawful authority, means of identification of other persons, to wit, in connection with WALLY's possession of what appear to be social security cards in the names of other individuals, WALLY, without permission, used the names of those individuals to facilitate his preparation and filing of false and fraudulent tax returns with the IRS on behalf of others and his own behalf.

(Title 18, United States Code, Section 1028A.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

6. I have been employed as an IRS Special Agent for more than twenty-one years. I am currently assigned to the IRS Criminal Investigation Division, New York Field Office. As an IRS Special Agent, I have directed, conducted, and participated in many investigations of criminal violations of the federal tax laws. During the course of these investigations, I have executed search and arrest warrants, utilized informants, interviewed witnesses, and conducted surveillance. Throughout my training, education, and experience, I have become familiar with the manner in which various tax frauds are committed. From my participation in this investigation, my conversations with law enforcement officers and others, and my review of documents, I am familiar with the facts and circumstances of this investigation. Because this affidavit is being submitted for a limited purpose, I have not included in it everything I know about this investigation. Where the contents of documents and the actions, conversations, and statements of others are related herein, they are related in substance and in part.

Background

7. I have spoken to New York City Police Department ("NYPD") detectives and reviewed IRS records and learned the following about the employment of and tax preparation performed by JONATHAN WALLY, the defendant:

a. Since in or about 2003, WALLY has been employed by the NYPD as a Police Officer assigned to the 34th precinct located in the Washington Heights/Inwood section of New York, New

York.

b. While working as an NYPD Police Officer and since at least in or about 2008, WALLY also has served as a tax preparer for individuals.

c. Although the NYPD requires its Police Officers to obtain written authorization to engage in off-duty employment, WALLY never sought or obtained such authorization to work as a tax preparer.

d. In or about 2009, the NYPD received credible information that at least 33 false and fraudulent 2008 tax returns had been filed, all of which listed WALLY as the tax preparer and that, based on such false and fraudulent tax returns, the IRS paid at least \$95,000 in fraudulent tax refunds.

The Investigation

8. I have spoken to other law enforcement officers and reviewed IRS records, bank records, and records obtained from Fiesta Auto Insurance ("Fiesta") and learned the following about the work of JONATHAN WALLY, the defendant, as a tax preparer:

a. In or about 2008, based on WALLY's application to the IRS, the IRS assigned WALLY a tax preparer number, which is called a Preparer Tax Identification Number ("PTIN"). The PTIN is required by the IRS in order for an individual to be paid a fee for filing another individual's tax returns.

b. Prior to receiving his PTIN, in or about the end of 2007, WALLY applied for and received from the IRS an Electronic Filing Identification Number ("EFIN-1"), which permitted him to file tax returns with the IRS electronically through the internet. WALLY received EFIN-1 using his social security number and the company name "J & A Tax Services."

c. For tax year 2008, WALLY served as a tax preparer under the name J & A Tax Services, located in New York, New York, which was owned by WALLY. In or about January 2009, WALLY filed his own 2008 tax returns using his PTIN and EFIN-1.

d. For tax year 2009, WALLY served as a tax preparer under the name "J & A Tax Service, II," located in the Bronx, New York, which also was owned by WALLY. In or about 2009, WALLY applied for and received from the IRS an Electronic Filing Identification Number ("EFIN-2") using his social security number but not any company name. From in or about January 2010 through on

or about April 15, 2010, WALLY prepared and filed 2009 tax returns on behalf of other individuals and his own behalf using his PTIN and EFIN-2.

e. For tax years 2010 and 2011, WALLY served as a tax preparer for Fiesta at its Bronx, New York location. From in or about January 2011 through on or about April 15, 2011, and from in or about January 2012 through on or about April 15, 2012, WALLY prepared and electronically filed 2010 and 2011 tax returns, respectively, on behalf of other individuals and his own behalf using his PTIN and an Electronic Filing Identification Number assigned to Fiesta ("EFIN-3").

9. I have spoken to other law enforcement officers and learned the following:

a. In or about February 2011, an NYPD Officer working in an undercover capacity ("UC-1") went to Fiesta's office in the Bronx, New York and spoke to JONATHAN WALLY, the defendant, about the possibility of filing a tax return on UC-1's behalf. WALLY gave UC-1 a Fiesta business card with WALLY's name on it as a "tax preparer." WALLY discussed UC-1's potential tax filing and suggested that, in order to obtain a higher refund, UC-1 find an individual to declare as a dependent. Approximately one week later, UC-1 went back to Fiesta and met with WALLY. During that meeting, UC-1 told WALLY that UC-1 had the social security number of a friend who was not a dependent but had given UC-1 permission to use the friend as a dependent. In response, WALLY told UC-1 that, because UC-1's friend was not a minor, UC-1 could declare the friend as a disabled adult and therefore obtain the dependency deduction. WALLY subsequently prepared UC-1's tax return falsely claiming UC-1's purported friend as UC-1's dependent sister.

b. In or about February 2012, a New York State Department of Taxation and Finance ("NYSDTF") Investigator working in an undercover capacity ("UC-2") went to Fiesta's office in the Bronx, New York and spoke to WALLY about the possibility of filing a tax return on UC-2's behalf. UC-2 told WALLY that UC-2 was self-employed and made approximately \$98,115 with approximately \$26,557 in expenses. WALLY told UC-2 that UC-2 made too much money and that, without a dependent, UC-2 would owe money rather than receive a tax refund. WALLY suggested to UC-2 that UC-2 not declare all of UC-2's income. WALLY subsequently prepared and filed a tax return for UC-2 that falsely claimed only approximately \$11,245 as income and approximately \$4,458 in expenses.

10. Pursuant to documents obtained from Fiesta via a grand jury subpoena, I learned that the following documents were

found on and in a desk at Fiesta's office in the Bronx, New York that was used by JONATHAN WALLY, the defendant:

a. A typewritten list of social security numbers and corresponding names and dates of birth (the "List"). There are 52 names on the List. All of the 52 names on the List are children who were born in the year 2007 and have Puerto Rican social security numbers.¹

b. Four cards that appear to be Social Security Cards in the names of children who were born in 2005 or 2006 with Puerto Rican social security numbers (the "SSN Cards").

11. I have reviewed certain 2009, 2010, and 2011 tax returns that JONATHAN WALLY, the defendant, prepared and electronically filed with the IRS for other individuals using his PTIN and EFIN-1, EFIN-2, and EFIN-3 and learned the following:

a. Nine of the 52 children's names on the List were claimed as dependents on 13 different individuals' tax returns. I have spoken to six of the 13 individuals and learned the following:

i. WALLY told two of the six individuals that they would receive a larger tax refund if a dependent was declared on their tax return and WALLY supplied the name of the dependent(s).

ii. Four of the six individuals were not aware that a dependent(s) was claimed on their tax return.

iii. All of the six individuals confirmed that WALLY prepared and filed their tax returns² and stated that they

¹From my training and experience, I know that individuals with Puerto Rican social security numbers who reside in Puerto Rico are not required to file tax returns with the IRS. Instead, such individuals are required to file tax returns with the Commonwealth of Puerto Rico. Accordingly, Puerto Rican social security numbers often are used by individuals who commit tax offenses similar to the offenses WALLY is charged with committing herein.

²One individual stated that an individual who took direction and instruction from WALLY actually prepared his/her tax return. A second individual's tax return actually was filed by an individual who assisted WALLY with tax preparation work but who is not named as a co-conspirator herein.

paid WALLY a sum of money in cash. None of the individuals were aware that WALLY caused an additional amount of money to be deducted from their fraudulently obtained tax refund and paid to himself for preparing their tax returns.

b. Each of the four children's names on the SSN Cards were used to claim a dependent on four different individuals' tax returns, including WALLY's own tax returns as described below ("Dependent-1," "Dependent-2," "Dependent-3," and "Dependent-4"). I have spoken to two of these four individuals and learned the following:

i. One individual had no familiarity with the names of Dependent-1 and Dependent-2, even though the names of Dependent-1 and Dependent-2 were claimed on that individual's 2011 tax return as dependents.

ii. The second individual claimed to be unaware that WALLY had filed a tax return for 2010 on his behalf on which the names of Dependent-3 and Dependent-4 were claimed as that individual's dependents.

c. Some of the individuals with whom I spoke concerning false dependents on tax returns that WALLY prepared and filed on their behalf with the IRS also had other false information on such returns. This false information included income from self-employment that they had not earned and expenses associated with such income that they had not incurred, as well as one income tax return on which an individual had declared income from self-employment but the expenses associated with such income falsely were inflated.

12. I have examined certain 2008 through 2012 tax returns prepared and electronically filed³ with the IRS by JONATHAN WALLY, the defendant, on his own behalf using his PTIN and EFIN-1, EFIN-2, and EFIN-3, and learned the following:

a. For tax year 2008, WALLY filed his own tax return claiming the names of Dependent-1 and another child ("Dependent-5"). According to the NYPD, in 2008, WALLY self-reported one biological dependent child who has a different name, date of birth, and social security number than Dependent-1 and Dependent-5. On 2010 and 2011 tax returns that WALLY prepared and filed for two separate individuals, the name of Dependent-1 (as well as Dependent-2) also are claimed as dependents.

³WALLY filed his 2010 tax return via U.S. Mail.

b. For tax year 2009, WALLY prepared and filed his own tax return claiming the names of Dependent-1 and Dependent-2 as dependents. According to the NYPD, in 2009, WALLY still self-reported only one biological dependent child who had a different name, date of birth, and social security number than Dependent-2. On 2010 and 2011 tax returns that WALLY prepared and filed for two separate individuals, the name of Dependent-2 (as well as Dependent-1) also are claimed as dependents.

c. For at least tax years 2010, 2011, and 2012, WALLY did not declare any income earned from his tax preparation work. From my review of WALLY's personal bank account records and IRS records, I learned that, in 2010, WALLY received approximately at least \$45,874 in what appear to be tax preparation fees from approximately 269 different clients. From my review of Fiesta's records and IRS records, I learned that WALLY received approximately \$31,415 in what appear to be tax preparation fees in 2011 from approximately 308 different clients and approximately \$35,368 in what appear to be tax preparation fees in 2012 from approximately 404 different clients.

13. On or about April 16, 2013, I spoke with the following individuals:

a. Two individuals whose son's name and social security appeared on one of the SSN Cards (Dependent-4) and as a dependent on one of the six individuals with whom I spoke as set forth in paragraph 11a above (collectively, "Victim-1"). Victim 1 stated, in sum and substance, that their son lived with them, was their dependent, and they never gave permission for their son's name and social security number to be claimed as a dependent on any other individual's tax return.


b. An individual whose daughter's name and social security number appear as a name on the List and as a dependent on 2010 and 2011 tax returns for one of the six individuals with whom I spoke as set forth in paragraph 11a above ("Victim-2"). Victim 2 stated, in sum and substance, that his daughter lived with his wife and him, was their dependent, and they never gave permission for their daughter's name and social security number to be claimed as a dependent on any other individual's tax return.

14. From in or about 2010 through in or about 2012, as a result of the false and fraudulent tax returns prepared and filed by JONATHAN WALLY, the defendant, on behalf of other individuals, the IRS paid those individuals at least \$119,793 in fraudulent tax

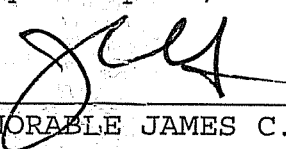
refunds.⁴

14. In or about 2009 and 2010, as a result of the false and fraudulent tax returns prepared and filed by JONATHAN WALLY, the defendant, on his own behalf, the IRS paid WALLY at least \$4,850 in fraudulent tax refunds. In addition, from in or about 2010, up to and including the present, WALLY failed to pay the IRS at least \$19,487 in income tax based on the income he earned as a tax preparer but failed to declare on his tax returns.

WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of JONATHAN WALLY, the defendant, and that he be imprisoned or bailed as the case may be.


Robert D. Beranger
Special Agent
Internal Revenue Service
Criminal Investigation Division

Sworn to before me this
17th day of April, 2013.


THE HONORABLE JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE

⁴For the individuals on whose behalf WALLY prepared and filed false and fraudulent federal tax returns, WALLY similarly prepared and filed false and fraudulent tax returns on their behalf with the NYSDTF thereby causing the State of New York to pay fraudulent tax refunds to those individuals as well.