



*United States Attorney
Southern District of New York*

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**ARRESTS IN MULTIMILLION-DOLLAR TAX
REFUND AND MAIL DIVERSION SCHEME**

LEV L. DASSIN, the Acting United States Attorney for the Southern District of New York, and PATRICIA J. HAYNES, the Special Agent-in-Charge of the New York Field Office of the Internal Revenue Service, Criminal Investigation Division ("IRS-CID"), JOSEPH M. DEMAREST, JR., the Assistant Director-in-Charge of the New York Field Office of the Federal Bureau of Investigation ("FBI"), RONALD J. VERROCHIO, the Inspector-in-Charge of the New York Division of the United States Postal Inspection Service ("USPIS"), and JANE HUGHES, the Special Agent-in-Charge of the New York Office of the United States Postal Service, Office of Inspector General ("USPS-OIG"), announced the arrests of LACY BETHEA, GLADYS MARIA PEÑA, and JOSE FRANKLIN DUARTE, for their roles in a scheme to abstract from the U.S. mail millions of dollars in federal tax refund checks that had been sent by the U.S. Treasury.

According to three criminal Complaints unsealed on Tuesday, February 24, 2009, and Wednesday, February 25, 2009:

Since approximately June 2007, federal law enforcement agents have been investigating a massive scheme involving the fraudulent use of stolen Social Security numbers and other identity information to submit fraudulent state and federal tax returns. The investigation to date involves the electronic filing of tens of thousands of federal tax returns and tens of millions of dollars of fraudulently obtained tax refunds.

In brief, the scheme involved the electronic filing of thousands of tax returns using Social Security numbers assigned to residents of the Commonwealth of Puerto Rico. Residents of Puerto Rico are issued Social Security numbers, but typically do not file federal tax returns with the Internal Revenue Service ("IRS") because, in general, such filing is not required as long as all of the Puerto Rico resident's income is derived from Puerto Rican sources. Here, the fraudulent tax returns falsely claim that the filer resides in one of the fifty states of the United States. The use of Puerto Rican Social Security numbers minimizes the risk that a legitimate federal tax return was already filed by the legitimate holder of the Social Security number.

During the investigation it was determined that, during the one-month period between January 16 and February 18, 2009, approximately 8,000 federal tax returns were electronically filed via Internet websites run by a particular company. Substantially all of those returns were filed from the Dominican Republic, and nearly every one sought a refund. The total amount of refunds sought by those approximately 8,000 federal tax returns was over approximately \$90 million. Moreover, 3,300 of those returns, seeking approximately \$32 million in refunds, had been "accepted" by the IRS, which means that refund checks would have been sent out. Thus far, however, the IRS has determined that over approximately 2,000 of those returns were fraudulent because the returns indicated that the taxpayer had earned wages from a particular employer in 2008 when, in fact, that was not true.

One of the ways the participants in the scheme arranged to actually receive the refund checks that were sent out was to request that they be mailed to various addresses in New York and elsewhere. The addresses were often clustered around a particular location. Participants in the scheme would then arrange with United States Postal Service letter-carriers to steal the checks from the mail and provide them to the

participants in the scheme, normally for a per-check fee. For example, thousands of the returns in question requested that refund checks be sent to addresses on the Bronx postal route assigned to BETHEA, who is a United States Postal Service letter-carrier.

In this case, on February 23, 2009, decoy letters, prepared to resemble federal tax refund checks, were placed in the U.S. mail for delivery on BETHEA's route. But instead of delivering the checks or returning them to the post office, BETHEA left the post office with them after work. PEÑA is alleged to have received unlawfully abstracted decoy mail on February 23, 2008, and DUARTE is alleged to have attempted to receive unlawfully abstracted decoy mail on that day as well.

BETHEA, 51 of Brooklyn, New York, and PEÑA, 26, of the Bronx, New York, were arrested on the afternoon of February 23, 2009. DUARTE, 36, of the Bronx, New York, was arrested on February 24, 2009. BETHEA is charged with conspiracy to steal United States mail and with delay and destruction of United States mail; PEÑA with conspiracy to steal United States mail and theft of United States mail; and DUARTE with conspiracy to steal United States mail and attempted theft of United States mail. If convicted on both charges BETHEA, PEÑA, and DUARTE each face a total maximum sentence of 10 years in prison and a maximum fine of \$500,000 or twice the gross pecuniary loss or gain derived from the offense.

BETHEA was presented in Manhattan federal court on Tuesday, February 24, 2009, before United States Magistrate Judge DOUGLAS F. EATON. He was released on a \$100,000 personal recognizance bond. PEÑA and DUARTE were presented in Manhattan federal court before Judge EATON. DUARTE was detained pending trial. PEÑA was released on a \$50,000 personal recognizance bond.

Mr. DASSIN praised the work of the IRS-CID, the FBI, the USPIS, and the USPS-OIG, and thanked them for their work in this case. He added that the investigation is continuing.

Mr. DASSIN also thanked the Dominican National Police and the Attorney General of the Dominican Republic for their assistance and cooperation. Mr. DASSIN noted that police officials in the Dominican Republic have executed more than a dozen search warrants, seized more than a dozen computers, and arrested nineteen persons in the Dominican Republic in connection with the investigation.

This case is being prosecuted by the Office's Major Crimes Unit. Assistant United States Attorneys DANIEL W. LEVY and HOWARD S. MASTER are in charge of these prosecutions.

The charges contained in the Complaints are merely accusations, and the defendants are presumed innocent unless and until proven guilty.

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