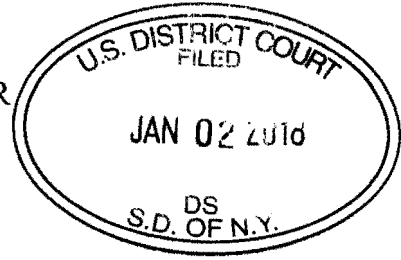


ORIGINAL

Approved: Jessica Greenwood  
JESSICA GREENWOOD  
Assistant United States Attorney

18 MAG 0009

Before: THE HONORABLE ROBERT W. LEHRBURGER  
United States Magistrate Judge  
Southern District of New York



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UNITED STATES OF AMERICA : SEALED COMPLAINT

- v. - : Violation of  
18 U.S.C. §§ 1344 and 2

MELVYN KOMITO, :  
Defendant. : COUNTY OF OFFENSE:  
NEW YORK

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DOC # \_\_\_\_\_

SOUTHERN DISTRICT OF NEW YORK, ss.:

TROY A. PITTENGER, United States Postal Inspector, being duly sworn,  
deposes and charges as follows:

COUNT ONE  
(Bank Fraud)

1. From at least in or about 2011 up to and including at least in or about 2017, in the Southern District of New York and elsewhere, MELVYN KOMITO, the defendant, did knowingly execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such a financial institution, by means of false and fraudulent pretenses, representations, and promises, to wit, KOMITO caused checks to be deposited, and electronic deposits to be made, into a bank account that KOMITO opened in the name of a victim without the victim's authorization and which represented tax refunds that KOMITO fraudulently diverted from the victim.

(Title 18, United States Code, Sections 1344 and 2.)

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

2. I am a Postal Inspector for the United States Postal Inspection Service. I have been personally involved in the investigation of this matter, and I base this affidavit on that experience, on my examination of various reports and records, and on my conversations with witnesses. Because this affidavit is being submitted for the limited purpose of demonstrating

probable cause, it does not include all the facts I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

3. Based on my conversations with a victim (“Victim-1”), I have learned, in substance and in part, that:

a. Victim-1 is an elderly individual who has lived at a particular apartment in Manhattan, New York since in or about 1999. Victim-1 is unmarried and has no children.

b. Victim-1 has known MELVYN KOMITO, the defendant, for approximately sixty years. KOMITO provided accounting services to Victim-1’s parents before they passed away, and has prepared and filed Victim-1’s state and federal tax returns for decades.

c. Beginning in the mid- to late-1990s, KOMITO would visit Victim-1 at Victim-1’s residence at least once a year to discuss Victim-1’s taxes and collect Victim-1’s tax documents. One year, instead of visiting Victim-1 in person, KOMITO sent Victim-1 a prepaid envelope to Victim-1’s residence so that Victim-1 could send KOMITO the tax documents that he needed to prepare Victim-1’s taxes.

d. On a quarterly basis, KOMITO would verbally tell Victim-1 how much to pay in taxes, either in person or by phone, and Victim-1 would make tax payments based on these discussions with KOMITO. Victim-1 made these payments out of a brokerage account at Morgan Stanley.

e. Victim-1’s mother died in or about 2013. KOMITO asked Victim-1 to pay him approximately \$150,000 to handle the estate and to prepare Victim-1’s personal taxes for three years. Victim-1 disagreed to the approximately \$150,000 amount but paid KOMITO approximately \$100,000 for these services and an additional approximately \$1,000 to complete an abatement form. KOMITO asked Victim-1 to pay additional fees for his services in or about 2017.

f. In or about July 2017, Victim-1 went to a Chase Bank to open a new credit card account. When Victim-1 opened the credit card account, a representative at Chase Bank asked whether Victim-1 wanted the credit card linked to the Chase Bank account in Victim-1’s name. Victim-1 denied having a Chase Bank account but was notified by the Chase Bank representative that there was an active Chase Bank account (the “Chase Account”) under the names of Victim-1, KOMITO, and Victim-1’s mother, with a balance of approximately \$14,000.

g. Prior to in or about July 2017, Victim-1 was unaware of the existence of the Chase Account. Victim-1 did not authorize KOMITO to open the Chase

Account in her name, to deposit funds belonging to Victim-1 into the Chase Account, or to withdraw funds belonging to Victim-1 from the Chase Account.

h. Victim-1 has reviewed the account opening documents for the Chase Account, including a document that purports to show Victim-1's signature. Victim-1 denies having signed this document.

i. Victim-1 has further reviewed a 2010 federal tax refund check, and a 2010 New York State tax refund check, that were issued in Victim-1's name and purportedly endorsed by Victim-1 before being deposited into the Chase Account. Victim-1 denies having signed these checks.

j. Victim-1 has also reviewed documents for the Chase Account purportedly signed by Victim-1's mother and believes those signatures were also forged.

k. For tax years 2010 through 2016, Victim-1 was unaware that she had been issued federal or New York State tax refunds and denies having received such refunds either directly from the taxing authorities or indirectly from KOMITO.

4. Based on my conversations with Victim-1's broker at Morgan Stanley ("Witness-1"), I have learned, in substance and in part, that:

a. Witness-1 has handled Victim-1's brokerage account for approximately eight or nine years. Witness-1 also handled a brokerage account for Victim-1's mother before she passed away.

b. Witness-1 spoke to MELVYN KOMITO, the defendant, by phone approximately two to three times a year regarding taxes for Victim-1 and Victim-1's mother. Witness-1 also met KOMITO in person once.

c. KOMITO told Witness-1, in substance and in part, that KOMITO was cheated years ago when Victim-1's mother and her husband sold a dress shop to KOMITO. KOMITO further told Witness-1, in substance and in part, that Victim-1 did not deserve money and did not appreciate anything. KOMITO asked Witness-1, in substance and in part, to tell Victim-1 that a \$150,000 fee to handle Victim-1's mother's estate was not overpriced but Witness-1 disagreed. Witness-1 would raise questions with KOMITO about Victim-1 and Victim-1's mother's affairs. KOMITO would respond by saying, in substance and in part, that Victim-1 and Victim-1's mother could get another broker. Witness-1 interpreted such statements as a threat.

d. With Victim-1's approval, Witness-1 would cut checks from Victim-1's brokerage account to the relevant taxing authorities. Witness-1 would send the checks to MELVYN KOMITO, the defendant. Victim-1 would check with Witness-1 each time to confirm that the checks cleared.

5. Based on my review of records for the Chase Account, I have learned the following facts, among others:

a. The account opening documents for the Chase Account list MELVYN KOMITO, the defendant, together with Victim-1 and Victim-1's mother, as the accountholders.

b. The mailing address for the Chase Account is an address in Indiana. I have searched for this address in law enforcement databases and learned, among other things, that the address is associated with an individual who appears to be KOMITO's son, who has registered at least one business using this address.

6. Based on my review of records for the Chase Account, and my review of Victim-1's federal tax records, including but not limited to my comparison of these records, I have learned the following facts, among others:

a. The IRS issued federal tax refunds to Victim-1 for tax years 2010 through 2016 in amounts that were later deposited into the Chase Account. For tax year 2011, and tax years 2013 through 2016, the final amount of Victim-1's tax refund was different (either higher or lower) than the amount of the anticipated tax refund listed on Victim-1's tax returns. Based on my review of Victim-1's tax transcripts, I have learned that this is because the IRS added or subtracted certain credits or liabilities on Victim-1's tax account before issuing Victim-1's final tax refunds.

b. Victim-1's 2010 federal tax refund was deposited into the Chase Account by check. On Victim-1's 2010 tax return, Victim-1's address was listed under the care of ("C/O") MELVYN KOMITO, the defendant. KOMITO was also listed on the tax return as a Third Party Designee and Paid Preparer.

c. Victim-1's federal tax returns for tax years 2011 through 2016 requested direct deposit of any tax refund into the Chase Account. For each of these years, the IRS in fact made a direct deposit of Victim-1's federal tax refunds into the Chase Account. Victim-1's federal tax returns for these years also listed Victim-1's address under the care of ("C/O") KOMITO. However, unlike Victim-1's 2010 federal tax return (*see* paragraph 6(b), above), these tax returns did not disclose KOMITO as a Third Party Designee or Paid Preparer. Instead, the tax returns indicated that they were prepared by a "Non-Paid Preparer" (for tax years 2011, 2012, and 2013) or were "Self-Prepared" (for tax years 2014, 2015, and 2016).

d. The amounts of Victim-1's anticipated federal tax refunds, actual federal tax refunds, and subsequent deposits into the Chase Account for tax years 2010 through 2016 – which total nearly \$360,000 – are shown below:

<b>Victim-1's Federal Taxes</b>			
<b>Tax Year</b>	<b>Anticipated Refund (Per Tax Return)</b>	<b>Actual Refund (Per IRS Transcript)</b>	<b>Chase Account Deposit</b>
2010	\$48,000.00	\$48,000.00	\$48,000.00

2011	\$55,000.00	\$57,761.36	\$57,761.36
2012	\$30,000.00	\$30,000.00	\$30,000.00
2013	\$33,434.00	\$34,097.23	\$34,097.23
2014	\$23,300.00	\$68,660.21	\$68,660.21
2015	\$57,000.00	\$61,572.40	\$61,572.40
2016	\$60,000.00	\$59,714.83	\$59,714.83
<b>Total:</b>		<b>\$359,806.03</b>	<b>\$359,806.03</b>

7. Based on my review of records for the Chase Account, and my review of Victim-1's New York State tax records, including but not limited to my comparison of these records, I have learned the following facts, among others:

a. For tax years 2010 through 2016, New York State tax refunds were deposited by check (for tax year 2010) or electronic deposit (for tax years 2011 through 2016) into the Chase Account. Based on all of the information contained in this paragraph, I believe that these deposits were deposits of Victim-1's New York State tax refunds.

b. Victim-1's 2010 New York State tax refund was issued by a check that was deposited into the Chase Account. As noted in paragraph 3(i) above, Victim-1 denies signing the endorsement on this check. On Victim-1's 2010 New York State tax return, Victim-1's address was listed under the care of ("C/O") MELVYN KOMITO, the defendant. KOMITO was also listed on the tax return as a Third Party Designee and Paid Preparer. Payment of Victim-1's tax refund was requested by check.

c. Victim-1's New York State tax returns for tax years 2011 through 2016 requested direct deposit of any tax refund into the Chase Account. For each of these years, New York State tax refunds were in fact deposited electronically into the Chase Account. For tax years 2012 and 2016, these deposits made into the Chase Account were for the same amounts as the anticipated tax refunds listed on Victim-1's tax returns. For tax year 2011, and tax years 2013 through 2015, the deposits made into the Chase Account were higher or lower than the anticipated refunds listed on Victim-1's tax returns. As discussed in relation to Victim-1's federal tax refunds, *see* paragraph 6(a) above, I believe based on my training and experience that this difference resulted from the fact that New York State added or subtracted certain credits or liabilities from Victim-1's tax account before issuing Victim-1's final tax refund. Victim-1's tax returns for tax years 2011 through 2016 listed Victim-1's address under the care of ("C/O") KOMITO. However, unlike Victim-1's 2010 New York State tax return (*see* paragraph 7(b), above), these tax returns did not disclose KOMITO as a Third Party Designee or Paid Preparer. Instead, the tax returns indicated that they were prepared by a "Non-Paid Preparer" (for tax years 2011, 2012, and 2013) or were "Self-Prepared" (for tax years 2014, 2015, and 2016).

d. The amounts of Victim-1's anticipated New York State tax refunds, and subsequent deposits into the Chase Account for tax years 2010 through 2016 – which exceed \$232,000 – are shown below:

**Victim-1's New York State Taxes**


Calendar Year	Anticipated Refund (Per Tax Return)	Chase Account Deposit
2010	\$40,000.00	\$40,000.00
2011	\$40,000.00	\$35,000.00
2012	\$23,000.00	\$23,000.00
2013	\$19,450.00	\$21,214.00
2014	\$12,000.00	\$36,340.66
2015	\$30,000.00	\$33,767.00
2016	\$43,000.00	\$43,000.00
<b>Total:</b>		<b>\$232,321.66</b>

8. Based on my review of records for the Chase Account, and my conversations with a representative of Chase Bank, I have learned the following facts, among others:

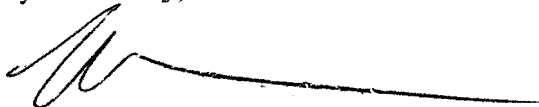
a. From in or about March 2011 through in or about July 2017, a total of approximately \$979,470.69 was deposited into the Chase Account. These deposits consisted of the approximately \$592,127.69 in Victim-1's federal and New York State tax refunds, as discussed in paragraphs 6 and 7, above, as well as a tax refund issued to Victim-1 in relation to Victim-1's mother's estate, tax refunds issued to Victim-1's mother, checks purportedly written by Victim-1's mother, and checks issued in Victim-1's name from various insurance companies and the New York State Comptroller.

b. Of the approximately \$979,470.60 deposited into the Chase Account from in or about March 2011 through in or about July 2017, approximately \$959,511.18 was withdrawn or transferred to other accounts or used to make credit card payments. For example, approximately \$551,050.00 was transferred to a Chase Bank checking account which, according to a Chase Bank representative, is held in the name of MELVYN KOMITO, the defendant.

WHEREFORE, deponent respectfully requests that an arrest warrant be issued for MELVYN K. KOMITO, the defendant, and that he be arrested and imprisoned or bailed, as the case may be.

  
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 Troy A. Pittenger  
 United States Postal Inspector

Sworn to before me this  
 2<sup>nd</sup> day of January, 2018

  
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 THE HONORABLE ROBERT W. LEHRBURGER  
 UNITED STATES MAGISTRATE JUDGE  
 SOUTHERN DISTRICT OF NEW YORK