

Approved: *Daniel M. Tracer*
DANIEL M. TRACER
Special Assistant U.S. Attorney

14 MAR 21 35

Before: HONORABLE KEVIN N. FOX
United States Magistrate Judge
Southern District of New York

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SEALED COMPLAINT

UNITED STATES OF AMERICA	:	Violations of
- v. -	:	18 U.S.C. §§ 641, 1001,
JAMES CARSON,	:	and 2; 42 U.S.C. §
	:	408 (a) (1) (A)
Defendant.	:	COUNTY OF OFFENSE:
	:	NEW YORK

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SOUTHERN DISTRICT OF NEW YORK, ss.:

PETER DOWD, being duly sworn, deposes and says that he is a Special Agent with the United States Social Security Administration ("SSA"), Office of Inspector General, and charges as follows:

COUNT ONE
(Theft of Government Funds)

1. From at least in or about July 2004, up to and including at least in or about September 2014, in the Southern District of New York and elsewhere, JAMES CARSON, the defendant, did embezzle, steal, purloin, and knowingly convert to his use and the use of others, and without authority, did sell, convey, and dispose of records, vouchers, money and things of value of the United States and a department and an agency thereof, to wit, the SSA, which exceeded the sum of \$1,000, and did receive, conceal, and retain the same with intent to convert it to his use and gain, knowing it to have been embezzled, stolen, purloined and converted, to wit, CARSON fraudulently obtained, and aided and abetted the obtaining of, Social Security benefits to which he was not entitled.

(Title 18, United States Code, Sections 641 and 2.)

COUNT TWO
(False Statements)

2. From at least in or about July 2004, up to and including at least in or about September 2014, in the Southern District of New York and elsewhere, JAMES CARSON, the defendant, willfully and knowingly did make materially false, fictitious, and fraudulent statements and representations in a matter within the jurisdiction of the executive, legislative, and judicial branches of the Government of the United States, to wit, CARSON submitted, and aided and abetted the submission of, applications for social security benefits in which he stated falsely that, among other things, he was unemployed, when in fact he was working full-time as the Director of Security at an international luxury watch company.

(Title 18, United States Code, Sections 1001(a)(2) and 2.)

COUNT THREE
(Failure to Report Employment)

3. From at least in or about July 2004, up to and including at least in or about September 2014, in the Southern District of New York and elsewhere, JAMES CARSON, the defendant, for the purpose of causing an increase in payments authorized to be made under Subchapter II of Chapter 7 of Title 42 of the United States Code, did make and cause to be made false statements and representations as to whether wages were paid and received for employment and the amount of wages and the period during which paid and the person to whom paid, to wit, CARSON failed to report the income he earned as the Director of Security at an international luxury watch company to the SSA in connection with his receipt of social security benefits to which he was not entitled.

(Title 42, United States Code, Section 408(a)(1)(A) and 2.)

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

4. I am a Special Agent with the SSA, Office of Inspector General, and have been employed in this capacity for over 14 years. I have personally participated in the investigation of this matter. This affidavit is based upon my personal knowledge, my review of documents, and my conversations with law enforcement agents and other people. Because this affidavit is being submitted for the limited

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

Overview

5. In or about 1990, JAMES CARSON, the defendant, left his job as a police officer with the New York City Police Department ("NYPD") due to a back injury and began receiving Social Security Disability Insurance ("SSD"). This disability benefit is only available to individuals who have a qualifying disability and are unable to work in any profession. On multiple forms submitted to the SSA, CARSON claimed that he could not work due to a herniated disc and that he had not earned any income since 1990, when he began receiving SSD benefits. In fact, since at least in or about 2004, CARSON has been working full-time as the Director of Security at an international watchmaker and luxury watch retailer headquartered in New York, New York (the "Company"). Since 2004, CARSON has received approximately \$306,431 in SSD benefits while employed as the Company's Director of Security. In order to conceal the income he made as the Company's Director of Security and prevent the SSA from discovering his fraud, CARSON arranged for his salary to be paid to a third-party corporate entity not registered to CARSON (the "Corporate Entity").

Social Security Disability Insurance

6. From my training and experience, I have learned that the SSA administers Social Security Disability Insurance ("SSD"), a federal benefits program that provides monthly cash benefits to individuals who have worked in the past and paid into Social Security, but who can no longer work due to medical disabilities. In order to receive SSD, a beneficiary must certify that he or she is incapable of performing any gainful activity due to the stated disability. In addition, a beneficiary must report to the SSA all sources of income from work activity and any changes in the beneficiary's medical condition. These factors are then taken into account in determining whether the beneficiary is entitled to payments and how much.

CARSON's Receipt of SSD Benefits

7. As part of my investigation, I have reviewed records maintained by the NYPD. From my review of those documents, I have

learned that JAMES CARSON, the defendant, suffered a slip and fall accident while working as an NYPD officer on or about April 3, 1990. On or about November 14, 1990, CARSON was approved by the NYPD to go on Accident Disability Retirement due to a diagnosis of lumbosacral derangement. CARSON ultimately retired from the NYPD in or about April 1991 under Accidental Disability Retirement.

8. As part of my investigation, I have reviewed documents maintained by the SSA related to JAMES CARSON, the defendant. From my review of these documents, I have learned the following:

a. Since in or about October 1990, CARSON has been receiving SSD for disorders related to his back. Since that time, CARSON has provided the SSA with periodic forms concerning his status. For instance, on or about May 20, 1995 and October 19, 1998, CARSON submitted Report of Continuing Disability Interview forms to the SSA, at least one of which was sent to a SSA office in the Bronx, New York. As part of those forms, CARSON agreed that he would "notify the Social Security Administration if my medical condition improves or I go to work." By signing these documents, CARSON further indicated his understanding that "anyone who makes a false statement or representation of a material fact in an application or for use in determining a right to payment under the Social Security Act commits a crime under Federal Law."

b. As part of his application for SSD and subsequent forms and correspondences, CARSON provided the SSA with personal information, including his address in Yorktown, New York (the "Carson Residence").

c. Since in or about October 1990, CARSON has received monthly SSD benefits based on his reported disability and lack of other work or income. From in or about approximately October 1990 until in or about 2014, CARSON has received approximately \$654,537 in SSD benefits.

CARSON's False Statements to the SSA in April 2014

9. On or about April 16, 2014, CARSON reported to the SSA for an interview related to his continued receipt of SSD benefits. I have reviewed video of CARSON attending that interview and spoken with the individual who conducted that interview. CARSON attended that meeting holding a cane and walking with a limp. As part of that

meeting, CARSON answered questions and filled out a number of forms related to his continued receipt of SSD benefits as described below:

a. On or about April 16, 2014, CARSON submitted a Continuing Disability Review Report to the SSA. As part of that report, CARSON indicated that he suffered from a medical condition, namely a herniated disc. CARSON further indicated that since July 19, 1995, the date of his last medical disability decision, he had not worked at all. CARSON also reported that his typical day consisted of the following "Daily Activities:"

[I G]et out of bed. I have breakfast, I walk around backyard [and] deck. Wait for wife to come home from work. I lay down a lot. I rely on my wife to go places - she drives mostly.

CARSON also indicated that he "always use[s] a cane." Carson further stated that he had difficulty driving, and therefore "my wife drives."

b. On or about April 16, 2014, CARSON also submitted a Work Activity Report (the "Work Activity Report") to the SSA. On the Work Activity Report, Carson stated that he had done no work since April 3, 1990, the date of his last work activity report. CARSON further stated that he had "no other income" during that time and that he had done "no work at all since my disability began." CARSON signed the Work Activity Report. Above CARSON's signature on the Work Activity Report, the Work Activity Report states:

I declare under penalty of perjury that I have examined all the information on this form, and on any accompanying statements or forms, and it is true and correct to the best of my knowledge. I understand that anyone who knowingly gives a false or misleading statement about a material fact in this information . . . commits a crime and may be sent to prison, or may face other penalties, or both.

c. On or about April 16, 2014, CARSON also submitted a Function Report (the "Function Report") to the SSA. In the Function Report, CARSON indicated that he "can't work @ all b/c severe pain, weakness." In the Function Report, CARSON also provided "Information about his Daily Activities," namely: "[I G]et up, stay at home mostly, I lay down to relieve back pain, wait for my wife

to get home from work, she drives me places." CARSON further reported that he has "to use a case @ all times." In terms of driving, CARSON stated that "[m]y wife has to do the driving, so I am with her," and that he could not drive due to "severe pain [and] weakness." In addition, CARSON responded to a question about places he goes to on a regular basis with, "I don't really go anywhere on a regular basis."

CARSON's Employment as the Director of Security at the Company

10. As part of my investigation, I have visited one of the Company's offices located in Long Island City, New York. I have also reviewed publicly available information related to the Company. From my visits and from my review this information, I have learned the following:

a. In or about March 2014, I spoke with a sales representative at the Company. The representative informed me that JAMES CARSON, the defendant, was the Director of Security at the Company. I was then informed by another employee of the Company that CARSON worked out of the Company's Long Island City office.

b. In or about March 2014, I visited the Company's offices in Long Island City. At that location, I observed that CARSON's name was listed on a Company directory with a phone extension. I then called the extension listed therein, and an individual who identified himself as "Carson" answered the phone.

c. Internet searches revealed that in or about 2010, CARSON received a National Retail Federation Loss Prevention Case of the Year Award. According to publicly available information on the internet, CARSON won this award for an investigation into credit card schemes targeting the Company. The award identifies CARSON, its recipient, as the Director of Loss Prevention and an Executive at the Company.

11. As part of my investigation, I have reviewed car registration records and conducted surveillance on certain vehicles registered to JAMES CARSON, the defendant. I have also reviewed EZ Pass records related to these vehicles. From my review of these records and my surveillance activities, I have learned the following:

a. At least four vehicles with New York license plates are registered to CARSON, including a black Honda SUV.

b. In or about March 2014, I observed CARSON drive away from a parking garage located below the Company's Long Island City offices (the "Garage") in the black Honda SUV registered to him and drive away from the Garage to a bridge in the direction of the Carson Residence.

c. On or about May 7, 2014 and May 15, 2014, I observed CARSON's black Honda SUV in the Garage. I also observed closed circuit footage from the Garage taken on or about May 28, 2014. The footage showed CARSON exiting his black Honda SUV in the Garage and walking toward the Garage exit with a shoulder bag. The footage also showed that after CARSON exited his vehicle, he walked up a set of stairs out of the garage without apparent difficulty and without a cane.

d. On or about July 16, 2014, I observed CARSON entering the Garage via a stairway. CARSON was walking without apparent difficulty and without a cane. I then saw CARSON drive his black Honda SUV out of the Garage and I observed as he drove away from the Garage to a bridge in the direction of the Carson Residence.

e. From my review of EZ pass records between in or about January 2010 through in or about in or about July 2014, I have learned that the EZ Pass tag associated with CARSON's black Honda SUV regularly travels along a route passing a bridge between the Carson Residence and the Company's Long Island City office, generally at or around the hours of 8:00 a.m. and 5:00 p.m.

12. As part of my investigation, I have met with members of the NYPD and reviewed documents related to NYPD reports. From these meetings and from my review of these documents, I have learned the following:

a. According to NYPD records, JAMES CARSON, the defendant, was interviewed by the NYPD on or about March 25, 2014, in connection with an NYPD investigation concerning the Company. According to the NYPD records, CARSON was identified as an employee of the Company.

b. In or about May 2014, I contacted members of the NYPD about another ongoing investigation related to the Company. On or about August 12, 2014, I spoke with an NYPD detective who interviewed CARSON in connection with this NYPD investigation. From speaking with this detective, I learned that the detective spoke with CARSON by phone approximately three times as part of this

investigation. During at least one of those calls, one of the Company's secretaries identified CARSON as the head of security at the Company and provided a phone number that was consistent with the phone number listed for CARSON at the Company.

13. As part of my investigation, I have reviewed records of the New York Department of State concerning corporations registered in New York. I have also reviewed tax return documents filed by JAMES CARSON, the defendant, with the Internal Revenue Service ("IRS"). From my review of these documents, I have learned the following:

a. Since in or about July 2004, the Corporate Entity, an S-Corporation with a relative of CARSON ("Relative-1") listed as the company's chief/principal executive officer, has been registered in the State of New York. The Corporate Entity is registered at the Carson Residence.

b. Between 2004 and 2012, the Corporate Entity has reported annual earnings ranging from approximately \$21,000 to \$108,000. Because the Corporate Entity is an S-Corporation, its gains or losses are carried over to the personal tax return of its owner, Relative-1, on Relative-1's tax returns.

c. From my review of tax returns filed by CARSON, Relative-1, and the Corporate Entity, I have learned that since at least in or about 2004, financial information was reported on these returns in the following manner:

i. Each year, CARSON and Relative-1 filed joint tax returns with the IRS (the "Joint Returns"). The Joint Returns provided the filers' residence as the Carson Residence.

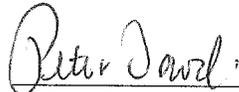
ii. Each year, a sum of money was paid from the Company to the Corporate Entity ranging from approximately \$27,000 to \$138,000. That payment was reported to the IRS in a Form-1099. That payment was also reported on the Corporate Entity's informational filing with the IRS called a Form-1120S. The Corporate Entity's Form-1120Ss provided the filing entity's place of business as the Carson Residence. For each year, the payment from the Company was the only income reported to the Corporate Entity.

iii. Each year, a substantial amount of the payment made by the Company to the Corporate Entity was reported to have been paid by the Corporate Entity to Relative-1 as wages. These payments

were reported on the Corporate Entity's Form-1120Ss as well as on the Joint Returns on an attachment thereto recording Relative-1's wages called a Form-W2.

14. As part of my investigation, I have reviewed applications made by JAMES CARSON, the defendant, for, among other things, insurance policies. For instance, I have reviewed an insurance policy application submitted by CARSON on or about May 22, 2014. From my review of that application, I have learned that as part of the insurance policy application, CARSON informed the insurance company that he was employed. I have also reviewed an application for an insurance policy submitted on or about October 25, 2013. From my review of that application, I have learned that CARSON informed the insurance company that no business was operating out of the Carson Residence.

WHEREFORE, deponent prays that an arrest warrant be issued for JAMES CARSON, the above-named defendant, and that he be arrested and imprisoned, or bailed, as the case may be.



PETER DOWD

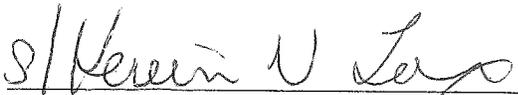
Special Agent

Social Security Administration

Office of Inspector General

Office of Investigations

Sworn to before me this
24th day of September, 2014.



THE HONORABLE KEVIN N. FOX

United States Magistrate Judge

Southern District of New York