

18 MAG 2235

Approved: _____

DOMINIC A. GENTILE

Assistant United States Attorney

Before: HONORABLE SARAH NETBURN
United States Magistrate Judge
Southern District of New York

- - - - - x
UNITED STATES OF AMERICA : SEALED COMPLAINT
- v. - : Violations of 18 U.S.C.
ERIC LUNA, : §§ 666(a)(1)(A), 1343,
Defendant. : and 2
- - - - - X

SOUTHERN DISTRICT OF NEW YORK, ss.:

TRENT SWEENEY, being duly sworn, deposes and says that he is an Assistant Inspector General with the New York City Department of Investigation ("DOI"), and charges as follows:

COUNT ONE

(Theft of Federal Funds)

1. From in or about January 2015 up to in or about October 2017, in the Southern District of New York and elsewhere, ERIC LUNA, the defendant, being an agent of a State and local government, and an agency thereof, unlawfully, willfully, and knowingly, did embezzle, steal, obtain by fraud and otherwise without authority knowingly convert to the use of a person other than the rightful owner and did intentionally misapply property valued at \$5,000 and more and owned by and under the care, custody, and control of such organization, government and agency, and that such organization, government and agency received, in a one year period, benefits in excess of \$10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance and other form of Federal assistance, to wit, LUNA, fraudulently converted property belonging to the New York City Department of Youth and Community Development ("DYCD") to his own use and benefit.

(Title 18, United States Code, Section 666(a)(1)(A) and 2.)

COUNT TWO
(Wire Fraud)

2. From in or about the January 2015 up to in or about October 2017, in the Southern District of New York and elsewhere, ERIC LUNA, the defendant, did knowingly and intentionally devise a scheme and artifice to defraud the DYCD, and to obtain money and property from the DYCD by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, did transmit and cause to be transmitted writings, signs, signals, pictures and sounds by means of wire communication in interstate commerce, to wit, LUNA fraudulently caused the transmission of interstate wire communications relating to the transfer of property and funds belonging to the DYCD.

(Title 18, United States Code, Sections 1343 and 2.)

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

3. I am an Assistant Inspector General with the DOI and have been so employed for approximately one and one-half years with an additional seventeen years of investigative law enforcement experience with the Department of Homeland Security and the Department of Interior. I am assigned to a DOI squad charged with enforcing state and federal laws prohibiting the misappropriation and misuse of property owned by and under the care, custody, and control of the City of New York. As such, I have worked on investigations and prosecutions involving New York City employees who have engaged in the theft of city owned property that was purchased, in part, with funds provided by the United States government. This affidavit is based upon my personal participation in the investigation of this matter, as well as on my conversations with other law enforcement officers and my examination of documents, reports, and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts I have learned during the investigation. Where the contents of documents or the actions, statements, or conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

Overview

4. As described in greater detail below, based on my investigation into this matter, my review of law enforcement reports and my conversations with other law enforcement officers, I have learned, among other things, that between in or about January 2015, and in or about May 2017, ERIC LUNA, the defendant, executed a fraudulent scheme whereby LUNA, a DYCD employee, placed requisition orders for mobile telecommunications devices with the New York City Department of Information Technology and Telecommunications on behalf of the DYCD, and without permission or authority to do so, diverted this equipment from the custody and control of the DYCD, and sold these devices to a third party vendor for his own personal enrichment and benefit.

The Investigation

New York City Department of Information, Technology and Telecommunications Services

5. Based on my participation in this investigation, I have learned, among other things, the following:

a. The New York City Department of Information, Technology and Telecommunications ("DOITT") is a local government agency created under Chapter 48 of the New York City Charter and regulated under Title 67 of the Rules and Regulations of the City of New York to develop, maintain and implement all telecommunications policies for New York City agencies.

b. DOITT receives federal assistance in the form of grants from the United States Department of Homeland Security, in excess of \$10,000 each calendar year, including for the one year periods beginning January 1, 2015 to December 31, 2015, January 1, 2016 to December 31, 2016, and January 1, 2017 to December 31, 2017.

c. DOITT is responsible for the oversight and administration of the telecommunications franchises that provide city agencies with land based and wireless communications services, including the distribution of mobile phones to city employees. DOITT manages a portfolio of approximately 46,000 mobile phones that are either actively being used by city employees, are in the process of being distributed by DOITT to a city agency, or are in the possession of a city agency.

d. Each agency has a wireless coordinator assigned to manage that agency's telecommunications needs. The agency coordinator is authorized to act on behalf of the agency to requisition telecommunications equipment for distribution to agency personnel. After the requisitions are processed by DOITT, the telecommunications service provider delivers the equipment to the agency coordinator. In the case of mobile phones, the agency coordinator activates these devices prior to distribution, which allows DOITT to manage billing for use of the mobile devices by agency personnel. The cost of the equipment is then deducted from the respective agency's budget appropriation.

e. Verizon is a franchisee service provider for the mobile devices purchased by DOITT for use by city agencies, including DYCD.

f. Verizon runs a monthly report for DOITT that identifies each of the mobile phones purchased by DOITT. This report includes information on how, and by whom, those mobile devices were activated.

g. Starting in or about April 2017, Verizon began notifying DOITT that a number of mobile devices requisitioned for use by DYCD personnel were being activated by non-city employees.

DYCD

6. Based on my participation in this investigation, I have learned, among other things, the following:

a. DYCD is a municipal public agency created under Chapter 30 of the New York City Charter, and is regulated under Title 9 of the Compilation of Codes, Rules and Regulations of the State of New York. DYCD is charged with the administration and monitoring of youth development programs established by the City of New York.

b. DYCD is a local government agency that received federal assistance in the form of grants from the United States Departments of Labor, Health and Human Services, Housing and Urban Development, and Agriculture, in excess of \$10,000 each calendar year, including the one year periods beginning January 1, 2015 to December 31, 2015, January 1, 2016 to December 31, 2016, and January 1, 2017 to December 31, 2017.

The Defendant

7. Based on my participation in this investigation, my conversations with other law enforcement officers, and DYCD personnel, I have learned, among other things, the following:

a. ERIC LUNA, the defendant, has been employed as DYCD's Wireless Coordinator since October 2014.

b. As DYCD's Wireless Coordinator, LUNA manages the agency's wireless telecommunications needs, and is authorized to act on its behalf to requisition telecommunications equipment, including mobile devices, for use by DYCD personnel.

8. Based on my participation in this investigation, including my review of information obtained from PayPal, I have learned, among other things, the following:

a. "Eric Luna" is a registered user of PayPal account no. 1966987236326323575 (the "Luna PayPal Account") with an address listed in Bronx, New York which ERIC LUNA, the defendant, uses as his primary residence.

b. The email account "ericluna210@gmail.com" is listed as a point of contact for, and is being used in connection with, the Luna PayPal Account.

The Illegal Scheme

9. Based on my participation in this investigation and my review of law enforcement reports, I have learned, among other things, the following:

a. Verizon reported that between in or about January 2015 and in or about October 2017, 161 mobile devices that were requisitioned for use by the DYCD, were activated for use by non-city employees (the "Subject Devices").

b. All of the Subject Devices were requisitioned by ERIC LUNA, the defendant, in his capacity as the DYCD's Wireless Coordinator.

c. The Subject Devices were delivered to LUNA at the DYCD, in New York, New York, and were either signed for by LUNA, or by another DYCD employee on LUNA's behalf.

10. Based on my participation in this investigation, including my review of information obtained from SWAPPA, an ecommerce company that focuses on the sale and resale of telecommunications equipment, including mobile phones, I learned, among other things, the following:

a. Between in or about February 2016 and in or about January 2017, eighty four of the Subject Devices were sold through SWAPPA by a company operating out of Pensacola, Florida under the name Express Mobile Techs.

b. Express Mobile Techs received payments in excess of \$43,000 from the sale of the eighty four Subject Devices.

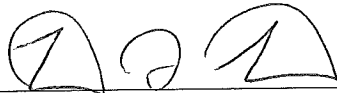
11. Based on my participation in this investigation, including my review of information obtained from PayPal, I have learned, among other things, the following:

a. Between in or about February 2016 and in or about January 2017, ERIC LUNA, the defendant, was paid in excess of \$43,000 by Express Mobile Techs through the Luna PayPal Account.

12. Based on my review of information obtained from JPMorgan Chase Bank, N.A., I have learned, among other things, the following:

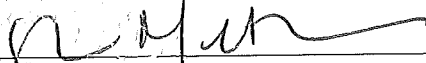
a. Between in or about February 2016 and in or about January 2017, in excess of \$43,000 was deposited into defendant, ERIC LUNA's, personal checking account from the Luna PayPal Account.

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



TRENT SWEENEY
Assistant Inspector General
New York City
Department of Investigation

Sworn to before me this
16th day of March, 2018



HONORABLE SARAH NETBURN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK