

18MAG 6082

Approved: BRETT M. KALIKOW
Assistant United States Attorney

Before: THE HONORABLE DEBRA FREEMAN
United States Magistrate Judge
Southern District of New York

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UNITED STATES OF AMERICA	:	<u>SEALED COMPLAINT</u>
	:	
- v. -	:	Violations of 18 U.S.C.
	:	§§ 1343 and 2, and 26
TOM SHIN,	:	U.S.C. § 7206(2)
	:	
Defendant.	:	COUNTY OF OFFENSE:
	:	New York
	:	

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SOUTHERN DISTRICT OF NEW YORK, ss.:

CASEY C. RYAN, being duly sworn, deposes and says that he is a Special Agent with the Internal Revenue Service ("IRS"), and charges as follows:

COUNT ONE

(Aiding the Preparation of a False Tax Return)

1. On or about April 17, 2018, in the Southern District of New York and elsewhere, TOM SHIN, the defendant, did willfully and knowingly aid and assist in, and procure, counsel, and advise the preparation and presentation under, and in connection with matters arising under, the internal revenue laws of the United States, of a return, affidavit, claim, and other document, to wit, U.S. Joint Income Tax Returns, Forms 1040, and accompanying forms and schedules, for two taxpayers filing jointly ("Client-1" and "Client-2", collectively, the "Clients"), for tax year 2017, which returns were false and fraudulent as to material matters, in that, among other things, the returns did not report capital gains earned by the Clients outside of the United States.

(Title 26, United States Code, Section 7206(2).)

COUNT TWO
(Wire Fraud)

2. From or about April 2018, up to and including at least in or about June 2018, in the Southern District of New York and elsewhere, TOM SHIN, the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, for the purpose of executing such scheme and artifice, to wit, SHIN, participated in a scheme to defraud the Clients that involved the misappropriation of over \$1.3 million from a bank account held by the Clients (the "Client Bank Account"), which money SHIN had been entrusted to use to satisfy the Clients' 2017 tax liabilities, but which SHIN instead used to manufacture a false claim for a tax refund for himself.

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

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

3. I am a Special Agent for the IRS. I have been personally involved in the investigation of this matter, and I base this affidavit on that experience and on my examination of various documents and records. 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.

4. Based on my review of an affidavit and records provided by Client-1, tax records maintained by the IRS and New York State Department of Taxation and Finance ("NYSDTF"), bank records from two financial institutions, and publicly available information, I have learned, in substance and in part, the following:

SHIN Was Hired to Prepare the Clients' Tax Returns

a. TOM SHIN, the defendant, is a managing director of a tax preparation and advisory firm with offices

nationwide ("Firm-1"). SHIN works in the New York, New York office of Firm-1.

b. Client-1 hired SHIN to prepare and file the Clients' joint state and federal tax returns for tax year 2017. Client-1 communicated with SHIN via electronic mail in February, March, and April 2018 regarding the tax returns to be prepared and filed for tax year 2017. For these electronic mail communications, Client-1 used an electronic mail address with the domain gmail.com, and SHIN used an email address with a domain associated with Firm-1.

c. In the course of those communications, Client-1 informed SHIN that the tax returns for tax year 2017 should reflect capital gains earned outside of the United States in the amount of approximately \$8,135,399 (the "Capital Gains Amount"). Client-1 also provided SHIN with the account number of the Client Bank Account from which payment for the tax liabilities was to be withdrawn. The Clients did not authorize Shin to use the Client Bank Account for any purpose other than paying the Clients' tax liabilities to the IRS and the NYSDTF.

SHIN Prepared and Filed False Tax Returns on Behalf of the
Clients, But Without the Clients' Knowledge

d. On or about March 29, 2018, SHIN sent Client-1 via electronic mail completed state and federal tax return forms for tax year 2017 (the "Purported State Tax Return" and the "Purported Federal Tax Return," respectively). The Purported State Tax Return and the Purported Federal Tax Return each reflected the Capital Gains Amount, and reported that the Clients owed approximately \$1,036,246 to the NYSDTF and approximately \$335,894 to the IRS, respectively, for tax year 2017.

e. On or about April 16, 2018, during ordinary business hours, SHIN sent Client-1 via electronic mail e-file authorization pages permitting SHIN to file tax returns on the Clients' behalf. On that same date, the Clients signed the e-file authorization pages and Client-1 returned them to SHIN via electronic mail.

f. For the electronic mail communications on or about March 29, 2018 and April 16, 2018 described in the immediately preceding two subparagraphs, Client-1 and SHIN used their respective gmail.com and Firm-1 domain email addresses.

g. On or about April 16, 2018, SHIN filed state and federal tax returns for tax year 2017 on behalf of the Clients with the NYSDTF and the IRS (the "Filed State Tax Return" and the "Filed Federal Tax Return," respectively). The Filed State Tax Return and the Filed Federal Tax Return each specified SHIN as the preparer of tax returns, both by name and by reference to SHIN's Preparer Tax Identification Number.

h. Unlike the Purported State Tax Return, the Filed State Tax Return did not report the Capital Gains Amount, nor any capital gains earned, to the NYSDTF. As a result, the Filed State Tax Return claimed that the Clients had a tax liability of approximately \$300, rather than a tax liability of approximately \$1,036,246 as specified in the Purported State Tax Return. The Filed State Tax Return provided that the tax liability of approximately \$300 should be withdrawn from a specified bank account, which was not the Client Bank Account. Rather, bank records show that that bank account is held by SHIN ("Shin Bank Account-1"). The specified tax liability of approximately \$300 claimed on the Filed State Tax Return was paid from Shin Bank Account-1.

i. Unlike the Purported Federal Tax Return, the Filed Federal Tax Return did not report the Capital Gains Amount, nor any capital gains earned, to the IRS. As a result, in combination with other manipulations, the Filed Federal Tax Return claimed that the Clients were owed a tax refund of approximately \$5,647, rather than had a tax liability of approximately \$335,894 as specified in the Purported Federal Tax Return.¹ The Filed Federal Tax Return provided for the claimed tax refund amount to be paid to Shin Bank Account-1, and the specified tax refund amount of approximately \$5,647 was paid by the IRS to Shin Bank Account-1.

¹ The Filed Federal Tax Return specified wages of \$8,219,599, which was significantly higher than the wages of approximately \$84,200 specified in each of the Filed State Tax Return, the Purported State Tax Return, and the Purported Federal Tax Return. Nevertheless, the Filed Federal Tax Return was able to claim a tax refund rather than a tax liability by, among other things, claiming a foreign tax credit of approximately \$3,200,428, which was significantly higher than the foreign tax credit specified in the Purported Federal Tax Return, which was \$1,582,408.

SHIN Used His Personal Tax Filings as Part of a Fraudulent
Scheme to Obtain Money from the Client Bank Account and the Tax
Authorities

j. On or about April 17, 2018, SHIN filed an Application for Six-Month Extension of Time to File for his personal state and federal income taxes (the "Shin State Extension Application" and "Shin Federal Extension Application," respectively).

k. Accompanying the Shin State Extension Application was a payment to the NYSDTF of approximately \$1,036,246 (the "Shin Estimated State Tax Payment"). The Shin Estimated State Tax Payment was in an amount that was the same as the tax liability specified on the Clients' Purported State Tax Return. The Shin Estimated State Tax Payment was paid from the Client Bank Account.

l. Accompanying the Shin Federal Extension Application was a payment to the IRS of approximately \$335,894 (the "Shin Estimated Federal Tax Payment"). The Shin Estimated Federal Tax Payment was in an amount that was the same as the tax liability specified on the Clients' Purported Federal Tax Return. The Shin Estimated Federal Tax Payment was paid from the Client Bank Account.

m. On or about April 23, 2018, SHIN filed personal state and federal tax returns for tax year 2017 with the NYSDTF and IRS (the "Shin State Tax Return" and "Shin Federal Tax Return," respectively).

n. The Shin State Tax Return claimed a refund of approximately \$1,040,101. The Shin State Tax Return noted the amount of the Shin Estimated State Tax Payment, which had been withdrawn from the Client Bank Account, as part of the tax refund requested. The Shin State Tax Return provided that the refund should be paid to a specified bank account. Bank records show that that bank account is held by SHIN ("Shin Bank Account-2").

o. The Shin Federal Tax Return claimed a refund of approximately \$338,671. The Shin Federal Tax Return noted the amount of the Shin Estimated Federal Tax Payment, which had been withdrawn from the Client Bank Account, as part of the tax refund requested. The Shin Federal Tax Return provided that the refund should be paid to Shin Bank Account-2.

SHIN Received Part of the Refund That He Claimed

p. On or about May 8, 2018, the IRS released a refund of approximately \$338,671, to SHIN, which was deposited into Shin Bank Account-2.

q. On or about May 4, 2018, May 29, 2018 and June 11, 2018, SHIN called the New York State Taxpayer Contact Center. For each call, the number from which SHIN dialed is the same number listed as his office number on the Firm-1 website. In addition, on each call, SHIN verified his identity, and stated that the amount of the tax refund request about which he was inquiring was "\$1,040,101."

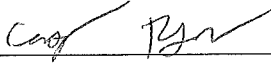
r. On or about May 11, 2018, following SHIN's initial call on May 4, 2018, the NYSDTF flagged the Shin State Tax Return and associated refund request as suspicious, and placed a hold restriction on the refund. To date, that refund has not been released to SHIN.

s. On or about May 16, 2018, NYSDTF Agents interviewed Client-1. Client-1 was unaware of SHIN's scheme, because Client-1 believed that the records for the Client Bank Account reflected the transfers to the IRS and NYSDTF for the Clients' liabilities in the Purported State Tax Return and the Purported Federal Tax return.

t. The net result of the scheme described is that approximately \$335,894 was transferred from the Client Bank Account to the IRS and then to Shin Bank Account-2. Further, approximately \$1,036,246 was transferred from the Client Bank Account to the NYSDTF, which SHIN then attempted, unsuccessfully, to have transferred to Shin Bank Account-2.

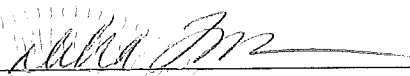
5. Based on my review of records provided by Google, I have learned, in substance and in part, that Google did not have any Gmail servers in the state of New York from on or about February 1, 2018 up to and including on or about April 30, 2018. Thus, the electronic mail sent from and to Client-1's Gmail account to the electronic mail account of TOM SHIN, the defendant, crossed state lines.

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



Casey C. Ryan
Special Agent
Internal Revenue Service

Sworn to before me this
17th day of July, 2018



THE HONORABLE DEBRA FREEMAN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

