

Approved: *Alexander Li*
ALEXANDER LI
Assistant United States Attorney

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

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	:	<u>SEALED COMPLAINT</u>
UNITED STATES OF AMERICA	:	
- v. -	:	Violations of
	:	21 U.S.C. §§ 812,
LUIS LEE,	:	841(a)(1), and
	:	841(b)(1)(C)
	:	
Defendant.	:	COUNTY OF OFFENSE:
	:	BRONX

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SOUTHERN DISTRICT OF NEW YORK, ss.:

ANTHONY RUSSO, being duly sworn, deposes and says that he is a Detective with the New York City Police Department ("NYPD"), and charges as follows:

COUNT ONE
(Narcotics Distribution Resulting in Death)

1. On or about September 18, 2020, in the Southern District of New York and elsewhere, LUIS LEE, the defendant, intentionally and knowingly did distribute and possess with intent to distribute controlled substances, in violation of Title 21, United States Code, Section 841(a)(1).

2. The controlled substances involved in the offense were: (i) a quantity of mixtures and substances containing a detectable amount of heroin, in violation of Title 21, United States Code, Section 841(b)(1)(C); and (ii) a quantity of mixtures and substances containing a detectable amount of fentanyl, in violation of Title 21, United States Code, Section 841(b)(1)(C).

3. The use of such controlled substances resulted in the death of Pathjrie Roman on or about September 19, 2020.

(Title 21, United States Code, Sections 812, 841(a)(1), and 841(b)(1)(C).)

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

4. I am a Detective with the NYPD and I have been personally involved in the investigation of this matter. This affidavit is based upon my personal participation in this investigation; my conversations with law enforcement officers, witnesses, and other individuals; my review of photographs, videos, and electronic and physical evidence; and my examination of reports and records. 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, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated. Where figures, calculations, and dates are set forth herein, they are approximate, unless stated otherwise.

5. Based on my participation in this investigation, including my personal observations, my conversations with other law enforcement officers and witnesses, my review of photographs, surveillance video, cellular location information, electronically stored information, and physical evidence, and my review of reports and records, I have learned the following, in substance and in part:

Roman's Overdose Death

6. On or about September 19, 2020, NYPD and emergency medical personnel responded to a report of an unresponsive woman, identified at the scene as Pathjrie Roman, in an apartment in the Bronx, New York ("Apartment-1"). Roman was dead at the scene. Also present was an individual ("Witness-1"), who advised that she was the roommate of Roman.

7. On or about September 19, 2020 and September 20, 2020, NYPD officers interviewed Witness-1, who reported the following, in substance and in part:

a. On or about September 18, 2020, at approximately 9:55 p.m. or 10:00 p.m. (*i.e.*, the night prior), Roman received a text message. Roman told Witness-1 that she was going downstairs to pick up Xanax pills. Roman left for approximately 5 to 20 minutes, and she then returned to Apartment-1.

b. On or about September 19, 2020, at approximately 2:00 a.m. or 2:30 a.m., Witness-1 left Apartment-1. While preparing to leave Apartment-1, Witness-1 thought she saw Roman crushing pills in her bedroom.

c. On or about September 19, 2020, at approximately 9:00 a.m., Witness-1 returned to Apartment-1. As Witness-1 prepared to go to sleep, Witness-1 heard Roman moaning in Roman's bedroom.

d. On or about September 19, 2020, at approximately 5:00 p.m., Witness-1 got up and found Roman unresponsive.

8. While at Apartment-1 on or about September 19, 2020, NYPD personnel recovered a cellphone (the "Roman Phone"), which Witness-1 advised was Roman's phone. NYPD personnel did not recover any narcotics or narcotics paraphernalia from Apartment-1.

9. On or about September 28, 2020, while inspecting the Roman Phone, I discovered four glassines lodged within the protective case of the Roman Phone. The NYPD lab tested one of the glassines as a sample, and found residue containing fentanyl, acetyl fentanyl, and heroin, among other substances.

10. The New York City Medical Examiner performed an autopsy of Roman and found that she died, or was found dead, on September 19, 2020 at 6:42 p.m., and that the cause of her death was acute intoxication from the combined effects of fentanyl, acetyl fentanyl, heroin, and alprazolam. Based on my training, experience, and research, I know that alprazolam is commonly known under the brand name Xanax.

Roman Orders Xanax and Heroin by Instagram
the Night Before Her Death

11. Based on my review of the contents of the Roman Phone and records provided by Facebook Inc. ("Facebook") pursuant to a search warrant, I have learned that on or about September 18, 2020, the user of the Roman Phone (*i.e.*, Roman), using the Instagram account identifier 17901073297 (the "Roman Instagram Account"), exchanged the following messages with an individual using the Instagram account identifier 32430635 (the "Lee Instagram Account"),¹ later identified as LUIS LEE, the defendant:

¹ Based on my training, experience, and research, I know that Instagram is an Internet-based social media platform through which

<u>Time</u>	<u>User</u>	<u>Message</u>
7:57 p.m. ²	Roman	Yooo
7:57 p.m.	Roman	Broooo
8:00 p.m.	Roman	I. Need Zans
8:05 p.m.	Lee	Video call started
8:07 p.m.	Lee	Video call ended
. . .		
9:00 p.m.	Roman	Yo
9:00 p.m.	Roman	I need some down too tho
9:01 p.m.	Lee	Wym u need some down?
9:01 p.m.	Roman	U know
9:02 p.m.	Lee	Video call started
9:03 p.m.	Lee	Video call ended
9:03 p.m.	Roman	Video call started
9:05 p.m.	Roman	Video call ended
9:05 p.m.	Roman	[Address of Apartment-1]

12. Based on my training, experience, and review of prior and subsequent messages, I believe that in this conversation - which occurred the night before Roman died - Roman asked Lee for Xanax ("Zans") and a depressant drug ("down"), of which heroin is a type. Specifically, I know that "Zans" is shorthand for Xanax. I also know that "down" is shorthand for "downer," which is a common street reference to a depressant (as opposed to an "upper," which refers to a stimulant). Heroin, which is an opioid, is a depressant, or a "downer."

13. Based on my review of the contents of the Roman Phone and records provided by Facebook pursuant to a search warrant, I know that the Roman Instagram Account and the Lee Instagram Account subsequently exchanged the following messages that same evening, on or about September 18, 2020:

<u>Time</u>	<u>User</u>	<u>Message</u>
9:46 p.m.	Roman	Come to the second floor I'm buzz u in

users can, among other things, post photographs and exchange direct messages. Instagram is commonly accessed using a cellphone. Instagram is operated by Facebook.

² Electronically stored information is typically displayed in Universal Coordinated Time. For consistency, all dates and times in this affidavit have been converted to Eastern Time.

<u>Time</u>	<u>User</u>	<u>Message</u>
9:46 p.m.	Lee	I can't come down ³
9:46 p.m.	Lee	Im in the V
9:46 p.m.	Roman	Ok one second I was doing my makeup
9:47 p.m.	Roman	Coming
9:47 p.m.	Lee	Aight
9:49 p.m.	Lee	Hurry up bro ⁴
9:51 p.m.	Lee	Yooo

14. Based on my review of surveillance video from the building that contains Apartment-1 ("Building-1"),⁵ I know that on or about September 18, 2020, at approximately 10:12 p.m.,⁶ Roman was recorded on video entering an elevator in Building-1. Approximately one minute later, Roman was recorded on video leaving

³ This message appears in the Roman Phone, but not in available Facebook records. Based on my training, experience, research, and information from Facebook, I know that a user may delete specific Instagram messages by using the "unsend" feature. That deletion will be reflected on Facebook's servers but will not affect messages saved on a device that is not connected to the Internet, because a disconnected device will not receive a deletion instruction from Facebook. After retrieving the Roman Phone on or about September 19, 2020, law enforcement disconnected it from the Internet. I therefore assess that LUIS LEE, the defendant, attempted to delete certain Instagram messages that he had sent to Roman, but the deletion request was not received by the Roman Phone. Indeed, as discussed below, Lee attempted to delete his entire Instagram account on or about September 21, 2020.

⁴ This message appears in the Roman phone, but not in available Facebook records. See note 3, above.

⁵ I reviewed the surveillance video at Building-1, and I recorded a video of the surveillance video on my cellphone. Unfortunately, NYPD personnel was unable to recover the original surveillance video before it was deleted pursuant to Building-1's retention policy.

⁶ In or about November 2020 and January 2021, I returned to Building-1 to compare the timestamps on the recording system to the time on my cellphone. During my visits, the time shown on the surveillance system deviated from the time on my cellphone from approximately 5 minutes to approximately 23 minutes, depending on the camera. I therefore believe that the timestamps described herein are accurate within approximately 30 minutes.

the front door of Building-1. A few seconds later, Roman was recorded on video approaching the driver's side window of a parked vehicle outside of Building-1.

LUIS LEE Learns of Roman's Death and
Deletes His Instagram Account

15. Based on my review of Facebook records obtained pursuant to a search warrant, I know that LUIS LEE, the defendant, using the Lee Instagram Account, exchanged the following messages with another Instagram user ("User-1"), on or about September 20, 2020 - *i.e.*, the day after Roman died:

<u>Time</u>	<u>User</u>	<u>Message</u>
2:01 a.m.	User-1	Tell bp wen u see him beba passed away
2:01 a.m.	User-1	Smh
1:03 p.m.	Lee	He knows already
1:03 p.m.	Lee	How she died?
1:03 p.m.	Lee	Tho
8:14 p.m.	Lee	How u know
8:14 p.m.	Lee	Smfhhh
8:20 p.m.	Lee	That's fucking crazy

16. Based on my review of Facebook records, I know that the first name registered to the Roman Instagram Account is "Beba." I therefore believe that in the conversation above, User-1 told LUIS LEE, the defendant, that Roman ("Beba") had died.

17. Based on my review of Facebook records, I know that the Lee Instagram Account was deleted on or about September 21, 2020, at approximately 1:54 a.m. - *i.e.*, less than 24 hours after User-1 told LUIS LEE, the defendant, that Roman had died. Pursuant to a search warrant, however, law enforcement was able to obtain certain preserved contents of the Lee Instagram Account.

LUIS LEE Is Identified As the
User of the Lee Instagram Account

18. Facebook records indicate that the phone number registered to the Lee Instagram Account was a telephone number ending in 1409 (the "1409 Telephone Number"), and that the phone number was "verified" by Facebook. Based on my training and experience, I know that service providers, such as Facebook, typically verify a user's phone number by sending the user a text message. By requiring the user to confirm the contents of the text message, the service provider verifies that the user does in fact possess the phone number that the user provided.

19. Based on my review of NYPD records and my discussions with other NYPD officers, I know that on or about November 11, 2020, LUIS LEE, the defendant, was arrested and charged with New York State narcotics offenses. In connection with this arrest, LEE informed law enforcement that his telephone number was the 1409 Telephone Number, which is the same telephone number registered to the Lee Instagram Account.

20. Based on my review of NYPD records and my discussions with other NYPD officers, I also know that in connection with the November 11, 2020 arrest of LUIS LEE, the defendant, law enforcement conducted a judicially-authorized search of LEE's bedroom, which was located inside an apartment that LEE shared with his father. Inside LEE's bedroom, law enforcement recovered, among other things, 12 glassines and a cellphone (the "Lee Phone"). I have reviewed photographs of some of the glassines recovered from LEE's bedroom and compared them to photographs of the glassines that I found inside Roman's phone case. Both sets of glassines appear to have the same size, shape, color, and density. In addition, the NYPD lab tested one of the glassines found inside LEE's bedroom as a sample, and found that the glassine contained fentanyl - *i.e.*, the same narcotic found mixed with heroin inside Roman's phone case.

21. Based on my review of the Lee Phone pursuant to a search warrant, I know that the Lee Phone, which was recovered from LEE's bedroom, used the 1409 Telephone Number, which is the number that is registered to the Lee Instagram Account.

22. Based on cellphone location records obtained pursuant to a search warrant, I know that on or about September 18, 2020, at approximately 9:44 p.m. and 9:59 p.m., the 1409 Telephone Number connected with cellphone towers in the vicinity of Apartment-1. The residence of LUIS LEE, the defendant, which law enforcement searched on or about November 11, 2020 as discussed above, is in upper Manhattan, and is not in the vicinity of Apartment-1 in the Bronx.

23. As set forth above, on or about September 18, 2020 - the night before she died - Roman asked LUIS LEE, the defendant, for Xanax and for a downer, of which heroin is a type. Two hours later, LEE met Roman outside Apartment-1 to deliver the drugs, as confirmed by the location of LEE's cellphone, by his real-time Instagram chats, by building surveillance video, and by the account of Roommate-1. The heroin found in Roman's body and in the glassines tucked in her cellphone case was tainted with fentanyl - the same drug that law enforcement found in LEE's apartment in November 2020, just two months after Roman's death. And almost

immediately upon learning of Roman's death, LEE deleted the Instagram account with which he communicated with Roman. For these reasons, I believe that LEE delivered to Roman the combination of fentanyl, heroin, and Xanax that caused Roman's death.

WHEREFORE, I respectfully request that a warrant issue for the arrest of LUIS LEE, the defendant, and that he be arrested and imprisoned or bailed, as the case may be.

s/Anthony Russo, by the Court, with permission
ANTHONY RUSSO
Detective
New York City Police Department

Sworn to me through the transmission of this Affidavit by reliable electronic means (FaceTime), pursuant to Federal Rules of Criminal Procedure 41(d)(3) and 4.1, this 1st day of July, 2021



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