

UNITED STATES DISTRICT COURT
for the
Eastern District of North Carolina

United States of America
v.
WALDA LORENA LUNA
PERFECTO RUANO

Case No.

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 2009 - May 2012 in the county of Duplin in the Eastern District of North Carolina, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. 286

From in or about January 2009 until at least on or about May 2012, in the Eastern District of North Carolina and elsewhere, Walda Lorena Luna, Perfecto Ruano and others unlawfully and knowingly agreed, combined, and conspired with others and each other to defraud the United States by obtaining and aiding to obtain the payment and allowance of false, fictitious, and fraudulent claims through the filing of false, fictitious, and fraudulent income tax returns with the Internal Revenue Service, an agency of the United States Department of Treasury.

This criminal complaint is based on these facts:

Please see attached affidavit

Continued on the attached sheet.

Shan-Tika Watkins (handwritten signature)

Complainant's signature

Shan-Tika T. Watkins, Special Agent, IRS-CI

Printed name and title

Sworn to before me and signed in my presence.

Date: 8 January 2016

James E. Gates (handwritten signature)

Judge's signature

City and state: Raleigh, North Carolina

James E. Gates, U.S Magistrate Judge - EDNC

Printed name and title

## **AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Shan-Tika Watkins, having being duly sworn, depose and state as follows:

1. I am employed as a Special Agent (S/A) with the Internal Revenue Service - Criminal Investigation (IRS-CI) in Raleigh, NC, and have been so employed since November 2006. During my tenure, I have investigated multiple violations of Titles 26, 18 and 31 of the United States Code. I completed training in law enforcement investigative techniques, including the investigation of tax and other financial crimes.
2. The information contained in this Affidavit is submitted for the purpose of demonstrating probable cause to obtain a criminal complaint against WALDA LORENA LUNA (LUNA) and PERFECTO RUANO (RUANO) for filing false claims for refunds with the IRS, in violation of Title 18, U.S.C., § 286.
3. Unless otherwise noted in this Affidavit, wherever it is asserted that a statement was made by an individual, it is intended to be a paraphrase of that statement and not a verbatim recitation. Because this Affidavit is being submitted for the limited purpose of demonstrating probable cause for a criminal complaint, it does not contain all the information known to me and/or other law enforcement officers involved in the case.

### **BACKGROUND**

4. LUNA is a native of the Republic of Honduras, who obtained Temporary Protective Status on November 3, 2006, after entering the U.S. illegally in or about January 1993. Since February 2010, LUNA has operated a small retail store named Beverly Tienda, which is located at 406 North Norwood Street, Wallace, N.C. For the 2009, 2010, 2011, and 2012 calendar years, LUNA reported the following respective amounts as business income earned from Beverly Tienda: \$16,000, \$18,000, \$17,481 and \$24,915. She reported no additional sources of income.
5. RUANO is a native of Guatemala. RUANO obtained Legal Permanent Resident (LPR) status on or about November 29, 1988. For the 2009, 2010, 2011, and 2012 calendar years, RUANO reported the following respective amounts in business income from several ventures: \$18,560, \$26,204, \$27,002, and \$59,123. He reported no additional sources of income.
6. LUNA and RUANO hold themselves out as husband and wife. Duplin County birth records show they are the biological parents of three children.
7. In the 1990's, IRS implemented the Individual Tax Identification Number (ITIN) program to provide resident and nonresident aliens who earn income in the United States, but who are not eligible for a social security number (SSN), a mechanism to file income tax returns and pay tax on income earned. An ITIN is a nine digit number in the same format of a SSN that begins with a '9.' To obtain an ITIN, an individual must file an Application (Form W-7) with the IRS. In addition, the taxpayer must establish a tax

purpose for obtaining an ITIN, which may be satisfied by submitting an original income tax return that reflects income earned in the U.S. by that taxpayer. The applicant must also submit either an original or certified copy of a passport or two other forms of identification, which can include national identification cards, birth certificates, medical records and school records. An individual without a SSN, who can be claimed as a dependent, such as a child, may also obtain an ITIN by completing a Form W-7 and supplying the requested identification documents.

8. The phrase "income tax return" is a reference to an U.S. Individual Income Tax Return (Form 1040). Generally, a Form 1040 is due on April 15<sup>th</sup> of the year following the tax year for which the tax return is filed. A taxpayer, however, may file prior year tax returns for up to three (3) years from the original due date. Accordingly, three Forms 1040 for the same taxpayer for three different tax years can be filed with the IRS at the same time.
9. To rent a post office box from the U.S. Postal Service, an individual must complete and sign under penalties of perjury an Application for a Post Office Box or Caller Service (Form 1093) and present two forms of identification. One of the identification documents presented must bear a photograph of the applicant. Acceptable forms of identification include a state driver's license or state identification card, government or university identification card, passport, alien registration card or naturalization certificate. The renter must designate on the Form 1093 whether the post office box will be utilized for personal or business usage and he/she must list the individuals authorized to receive mail at the assigned post office box.
10. Records from the U.S. Postal Service reveal that LUNA opened POBs 483 and 849 and RUANO opened POBs 765 and 877 at the Wallace, NC post office. RUANO is listed as an authorized user of POB 483. U.S. Postal Service records also show that RUANO opened POB 73 at the Willard, NC post office.

#### PROBABLE CAUSE

11. On May 1, 2014, Arkansas State Police conducted a traffic stop of a vehicle registered to LUNA and RUANO on Interstate 40. Both LUNA and RUANO occupied the vehicle and consented to a search of the vehicle upon the officer's request. The search resulted in the discovery of loose currency in a pillow and nine large bundles of currency (four in a safe, three in another safe and two bundles in a cardboard box), totaling \$1,789,520.00. The following photographs depict the bundles as found by the Arkansas State Police and the currency once unwrapped:



al



During the traffic stop, both claimed ownership of the currency.

12. On May 2, 2014, the Arkansas State Police notified law enforcement authorities in North Carolina of the stop and seizure. Members of the Duplin County Sheriff's Office and a federal agent from the Department of Homeland Security went to the couple's Wallace residence at Their adult daughter, Beverly Ruano, consented to a search. The officers saw a business ledger consistent with use for documenting tax preparation services and three empty cardboard boxes partially wrapped in packing tape consistent in shape and size with the bundles of currency seized the previous day in Arkansas. Approximately 30 minutes into the consent search, Ms. Ruano informed the officers that she had to leave the residence to attend school. The officers complied with her request to leave. The officers then went to Beverly Tienda, a retail establishment owned and operated by LUNA at 406 North Norwood Street, Wallace, NC. They spoke with LUNA's sister, Dunia Mejia Lopez, who advised them that her sister and RUANO had left North Carolina, on April 30, 2014, to meet with another sister in Los Angeles, California. Lopez further advised that LUNA was meeting with this sister regarding a business deal. Lopez, who claimed she was operating the business while LUNA was away, permitted the officers to search the business premises. The officers saw photocopies of tax preparation documents, computers and a large amount of copy paper.
13. Shortly thereafter, Duplin County Detective Benjamin L. Parish obtained warrants to search and 406 Norwood Street for evidence of filing fraudulent income tax returns. The warrant authorized the seizure of, among other things, "documents or writings that are indicative of or which identify assets that may have been acquired through the proceeds of illegal activities" and electronic evidence "containing evidence of tax preparation and secreting and laundering of money obtained from the filing of fraudulent U.S. income tax returns."
14. At the residence, the officers seized nine (9) foreign identification documents purportedly issued by the Republics of Honduras and Guatemala, over 300 ITIN letters issued by the IRS to individuals other than LUNA and RUANO, approximately 113 tax related records for individuals other than LUNA and RUANO, 179 wage and tax statements (Forms W-2) purportedly issued to individuals other than LUNA and RUANO, and handwritten ledgers that appeared to detail whether income tax returns had

A handwritten signature or set of initials, possibly "AK", written in black ink.

been filed using specific ITINs, if income tax refund checks had been mailed and if additional data was needed to file income tax returns.

15. 145 of the seized ITIN letters were addressed to post office boxes opened by LUNA or RUANO (see paragraph 9) or street addresses associated with LUNA and RUANO, including 309 East Cavanaugh Street, Wallace, NC, an address previously used by RUANO to operate an income tax business known as IncoTax. There were also handwritten notes listing nine additional post office boxes at several post offices and other physical addresses in the Eastern District of North Carolina.
16. At the business, the officers seized, among other things, identification documents and a DELL Computer with serial #SN20559043873. A forensic analysis of the computer revealed TaxWise software containing client files for approximately 229 income tax returns for calendar years 2008, 2009, 2010, and 2011. TaxWise is a professional tax preparation software.
17. In or about February 2006, LUNA opened First Bank business account ending 1050, listing RUANO as an authorized signatory. Between January 2009 and May 2012, 2,760 U.S. Treasury refund checks with a total face value of \$12,104,825.90 were deposited into this account. These checks comprised 95% of the deposits into this account. The average amount of each check was approximately \$4,385.81. During approximately the same time period, LUNA withdrew \$11,888,300 in cash by writing 252 checks to cash.
18. 75 of the U.S. Treasury refund checks deposited into this account correspond to the Taxwise income tax returns found on the computer seized from Beverly Tienda. These 75 refunds totaled \$499,953.25. Your affiant has confirmed that all 75 income tax returns were filed with the IRS and resulted in the issuance of those U.S. Treasury refund checks deposited into First Bank account ending 1050. To date, your affiant has identified the five employers listed on 71 of the Forms W-2 attached to the 75 income tax returns. There were five common employers. Each advised your affiant that the Forms W-2 were not issued by them and the listed employees did not work for them. Therefore, all those Forms W-2 attached to the 71 returns were fraudulent and contained false wage information. All 75 of the income tax returns were addressed to the post office boxes opened by LUNA or RUANO (see paragraph 9) or street addresses associated with LUNA and/or RUANO as shown in chart below:

Address	Associated Name	# Returns
POB 483	LUNA & RUANO	12
POB 765	RUANO	7
POB 849	LUNA	2
POB 877	RUANO	47
	RUANO NC Driver's License	1
309 E. Cavanaugh St.	RUANO Tax Business	5
	RUANO	1
	<b>TOTAL</b>	<b>75</b>

19. IRS located an additional 71 filed income tax returns linked to the 113 tax records found at LUNA's residence. These 71 income tax returns resulted in the issuance of U.S. Treasury refund checks, totaling \$507,927.00. To date, 66 of the 71 income tax returns have been verified false by the employer listed on the Forms W-2 attached to those returns. Again, the employees listed on the Forms W-2 did not work for those respective employers.<sup>1</sup> Similarly, 69 of the 71 the income tax returns were addressed to post office boxes (see paragraph 9) or physical addresses linked to LUNA and/or RUANO as shown in chart below:

Address	Associated Name	# Returns
POB 483	LUNA & RUANO	3
POB 765	RUANO	5
POB 849	LUNA	17
POB 877	RUANO	23
POB 73 Willard	RUANO	3
309 E. Cavanaugh St.	RUANO Tax Business	15
	RUANO	1
	LUNA	2
	<b>TOTAL</b>	<b>69</b>

20. In addition to selling groceries and merchandise, LUNA was licensed by the North Carolina Office of the Commissioner of Banks (NC-OCOB) to cash checks. For government issued checks, such as U.S. Treasury refund checks, LUNA could only charge 3% of the check's face value. In annual reports filed with the NC-OCOB, LUNA reported that she collected a total of \$116,736.46 in fees for the calendar years 2009, 2010, 2011, and 2012.

<sup>1</sup> Three verifications are outstanding. One employer's Federal Employment Identification Numbers (EIN) listed on the Form W-2 was not validly issued by the IRS and two employers' SSNs listed on the Forms W-2 require clarification. Your affiant is awaiting further information.

