

United States District Court

NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

SEP 11 2008

In the Matter of the Search of
(Name, address or brief description of person, property or premises to be searched)
Yahoo! Account wff1001@yahoo.com
The Yahoo Network (Yahoo.com among others)
701 First Avenue
Irvington, NY 10533

APPLICATION AND AFFIDAVIT

FOR SEARCH WARRANT
MATTHEW J. DYKMANCLERK
CASE NUMBER:

08MR360

SEALED

I, Dianna N. Aragon, being duly sworn depose and say:

Special Agent, Criminal Investigation

I am a(n) Internal Revenue Service, U.S. Treasury

Official Title

and have reason to believe

that ☐ on the person of or ☒ on the property or premises known as (name, description and/or location)

See Attachment A, attached hereto and incorporated herein by reference.

in the Judicial District of New Mexico and elsewhere.

there is now concealed certain property, namely

See Attachment B, attached hereto and incorporated herein by reference.

which is (state one or more bases for search and seizure set forth under Rule 41(c) of the Federal Rules of Criminal Procedure)

Evidence and instrumentalities of Crime and Fruits of Crime

concerning a violation of Title 26 United States Code, Section(s) 7201, 7212, 18 USC 371

The facts to support a finding of Probable Cause are as follows:

See Affidavit Attachment, attached hereto and incorporated herein by reference.

Continued on the attached sheet and made a part hereof.

☒ Yes ☐ No

Dianna N. Aragon
Signature of Affiant

Sworn to before me, and
subscribed in my presence

11 Sep 08

Date

at

ALBUQUERQUE, NEW MEXICO

City and State

W. Daniel Schneider

United States Magistrate Judge

Name and Title of Judicial Officer

W. Daniel Schneider
Signature of Judicial Officer

Signature of Judicial Officer

APPROVED 9-9-08

Sasha Seowel, AUSA

ATTACHMENT B

There is probable cause to believe that now located at the premise described in Attachment A, there is evidence, and fruits and instrumentalities of criminal offenses against the United States, for the years 2004 through the present, namely, conspiracy to defraud the United States government, in violation of Title 18, United States Code, Section 371, tax evasion, in violation of Title 26, United States Code, Section 7201, and interference with administration of Internal Revenue laws, in violation of Title 26, United States Code, Section 7212(A).

Items to be Seized

For the years January 1, 2004 through present:

Any and all information for Yahoo! Accounts wff1001@yahoo.com, to include all subscriber information, such as name and address, date of birth, gender, date account created, account status, alternate e-mail address, registration from IP, date ID registered, and log-in IP addresses associated with session times and dates.

For the Yahoo! Accounts identified in Paragraph A above, the contents of any and all e-mails stores in the subscriber's Yahoo! Account.

AFFIDAVIT

I, Dianna Aragon, Special Agent, Internal Revenue Service – Criminal Investigation, being duly sworn, state that:

1. This affidavit is made in support of an application for the issuance of a Search Warrant for the following location:

a. Yahoo! Account wff1001@yahoo.com

Based on my training and experience, together with my personal knowledge of the facts of the investigation to which the affidavit relates and information from other special agents who have investigated similar cases, I respectfully submit that there is probable cause to believe that now located at the above premise is evidence, and fruits and instrumentalities of criminal offenses against the United States, for the years 2004 through the present, namely, conspiracy to defraud the United States government, in violation of Title 18, United States Code, Section 371, tax evasion, in violation of Title 26, United States Code, Section 7201, and interference with administration of Internal Revenue laws, in violation of Title 26, United States Code, Section 7212(A).

AGENT BACKGROUND

2. I am a Special Agent with the Internal Revenue Service, Criminal Investigation (IRS-CI) and have been so employed since September 2007. As a Special Agent, I have received training at the Federal Law Enforcement Training Center, and graduated from the Special Agent Basic Training Program. During my training, I studied a variety of law enforcement, criminal investigator, and tax crime issues, including

search and seizure, violations of the Internal Revenue laws, and Internal Revenue Service procedures and policies in criminal investigations.

3. My duties and responsibilities as a Special Agent include investigations of individuals and business entities which have allegedly violated Federal criminal laws of the United States Code, including Title 26 (Internal Revenue), Title 18 (Money Laundering and other Federal crimes), and Title 31 (Bank Secrecy Act).

4. In my capacity as a Special Agent with IRS-CI, I have conducted and participated in financial investigations involving alleged criminal violations and I have participated in the execution of Search Warrants.

5. Prior to becoming a Special Agent with IRS-CI, I was employed as a senior tax associate in the federal tax department of a large public accounting firm for three years. I was responsible for preparing and reviewing tax returns for individuals, corporations, partnerships, trusts and non-profit entities.

6. I earned a Bachelor of Arts degree in Business Administration with a concentration in Accounting from the University of New Mexico in 2004. Through my education, training and work experience I became very familiar with the types of financial records a business entity keeps.

SYNOPSIS OF INVESTIGATION

7. This affidavit is based, in part, on my personal knowledge, the knowledge of other federal law enforcement officers, the knowledge of other employees of the IRS, the statements of informants, the observations of New Mexico Public Regulation

Commission, the analysis of IRS records and documents, the analysis of public records, and the analysis of records received from informants. This information is of the quality and quantity routinely and properly relied on by law enforcement personnel in conducting investigations and analyzing the existence of probable cause to believe crimes, such as those being investigated in this matter, are being or have been committed. Those supplying the information are reliable in that they are: law enforcement agency employees who are knowledgeable about the need for investigative, regulatory and other information to be correct and reliable; officers, employees and agents of the individuals, businesses, organizations and institutions identified elsewhere in this affidavit, who supplied the information to government authorities, knowing that the authorities would rely on it and that the individuals, businesses, organizations and institutions are obligated to provide truthful information to law enforcement personnel when making reports of possible illegal activities and the facts and circumstance surrounding such reported activities. The statements received are corroborated by each other and by other material gathered in this investigation. Because this affidavit is being submitted for the limited purpose of establishing probable cause in support of an application for a Search Warrant, I do not set forth each and every fact learned in the course of the investigation.

AMC Insurance Brokers LLC

8. On or about June 26, 2007, IRS – Criminal Investigation (IRS-CI) received information from a confidential source that GILBERT LOVATO (LOVATO), MICHAEL CRAIG CELENZE (CELENZE), and ROGER DALE BUSCH (BUSCH) are involved in

operating an abusive tax evasion scheme. The informant provided the scheme's promotional material and proceeded to provide the following information:

- a. LOVATO, CELENZE, and BUSCH, operating under the name of AMC Insurance Brokers, LLC (AMC), host seminars to promote their scheme and encourage prospective clients to buy their products. Many of the day to day operations of AMC are run out of BUSCH's apartment, located at 6110 Academy Road NE, Apt. 47, Albuquerque, NM 87109.
- b. Seminars are by invitation only. At these seminars, LOVATO, CELENZE, and BUSCH sell pre-established limited liability companies (LLCs), equipped with private mail boxes, bank accounts in the name of the LLCs, non-traceable computers, and pre-paid debit cards. LOVATO, CELENZE, and BUSCH teach their clients how to use their products to hide their income from the IRS and evade the assessment or payment of taxes. The product packages are sold for approximately \$2,100.00 to \$7,300.00, depending on the package.
- c. A basic LLC package includes a pre-established New Mexico LLC, a Bank of America bank account under the name of the LLC, and a post office box to receive the LLC's mail. For an additional charge, a client can buy a "stealth" computer that has a non-traceable IP address and a "virtual" office located in Panama City, Panama. The purpose of the LLC package is to divert all of the client's income into the LLC, spend all of the money as business expenses, and report nothing to the IRS. The goal of the LLC is to conceal the client's true identity and disassociate the client from their income and assets.

9. AMC Promotional material provided by the informant included several power point presentations. The presentations encourage clients to step away from the "old you" trapped in tax bondage, tax identification numbers, and assets titled in their name. The "new you" separates yourself from income, owns nothing, owes nothing, and eliminates tax reporting by managing an LLC with a non-traceable bank account, expensing everything, deducting fictitious invoices, and diverting excess income overseas or to prepaid debit cards.

10. AMC promotional materials also claim that the IRS is not a government agency, and is a private corporation out of Puerto Rico.

11. During the course of my investigation, IRS-CI determined CELENZE is the president and founder of AMC, LOVATO manages the pre-paid debit cards and helps promote the LLCs at the seminars, BUSCH is the manager of operations, and DELILAH S. HALLER (HALLER) is a client/sales manager.

12. New Mexico is one of only two states that do not require LLCs to report under Uniform Commercial Code (UCC) Regulations. Because of the lack of reporting requirements, AMC uses New Mexico LLCs to structure their tax evasion packages. CELENZE, using the name MICHAEL CRAIG, and HALLER, using the name D.S. COBLEY, create mass quantities of New Mexico LLCs. CELENZE and HALLER file the LLC paperwork as Registered Agents, and use fictitious companies or names as the organizers of the LLCs. They register the LLCs with the IRS in order to receive an EIN, which is needed in order to open a business account for the LLC.

13. A query run by the New Mexico Regulations Department shows that MICHAEL CRAIG is a Registered Agent for over 400 New Mexico LLCs, and D.S. COBLEY is a Registered Agent for over 200 LLCs. The LLCs are all registered to the same three private mail box addresses: 5901-J Wyoming Blvd NE # 193, Albuquerque, NM, 8400 Menaul Blvd. NE # 152, Albuquerque, NM, and 5850 Eubank Blvd. NE, B-49 # 200, Albuquerque, NM. All LLCs associated with the above-named addresses have been created in the last four years. IRS databases show EINs have been assigned to the LLCs registered by CRAIG and COBLEY at the above-named addresses. Since the application of these EINs, no tax returns or other forms associated with these EINs have been filed with the IRS. The majority of the applications for the EINs were filed electronically with the IRS (i.e., by use of a computer.)

14. LLCs previously created by CELENZE or HALLER, called "seasoned LLCs" are the owners of the LLCs applying for EINs. Each LLC claims to owe no taxes by virtue of being owned by another such LLC. As a result, no LLC pays taxes.

15. IRS records show that CELENZE has not filed a federal income tax return in over 20 years, BUSCH has not filed a federal income tax return in over 10 years, and HALLER has not filed a federal income tax return in the past three years (since she began to work for AMC.) IRS records also show that LOVATO has filed federal income tax returns through 2006, but there is evidence to believe that LOVATO is using the tax evasion packages to underreport his income. In the past couple of years, LOVATO's reported income has substantially decreased, although within these tax years he has

acquired several large assets, including a multi-million dollar house. Additionally, LOVATO owns several LLCs involved in this scheme.

16. On or about July 11, 2008, IRS-CI received information from two additional confidential sources that LOVATO, CELENZE, BUSCH, and HALLER were operating a tax scam involving New Mexico LLCs. The informants corroborated all of the information provided by the previous informant, provided the same AMC promotional materials, and proceeded to provide additional promotional material and the following additional information:

- a. AMC has associates around the nation that help sell the LLC tax evasion packages. AMC has clients throughout the nation that have bought these tax evasion packages and divert their income through the New Mexico LLCs.
- b. HALLER's responsibilities include selling LLC packages to clients, along with setting up client bank accounts, private mail boxes, and LLCs. HALLER told confidential sources she operates her side of the business from a computer at her residence or a laptop that she carries with her. HALLER, along with all employees of AMC, was given a laptop to conduct AMC business. A confidential source has seen HALLER carry her laptop around while conducting business outside of her residence.
- c. BUSCH's responsibilities include opening client bank accounts, maintaining LLC paperwork, and operating the AMC Call Center, which maintains client relations. A toll-free phone number is set up at his residence, located at 6110 Academy Road NE, Apt. 47, Albuquerque, NM 87109.

- d. BUSCH runs the day to day operations of AMC from the back bedroom of his residence, located at 6110 Academy Road NE, Apt. 47, Albuquerque, NM 87109. Confidential sources have been inside BUSCH's residence and saw several computers at this location, including the AMC company server. AMC business records are kept on memory sticks, located throughout the residence.
- e. LOVATO, CELENZE, BUSCH, and HALLER use the LLC tax evasion packages to hide their own income and prevent the IRS from assessing their tax liabilities.
- f. Up until approximately June 2008, AMC rented a conference room from a business center, located at 6739 Academy Road NE, Albuquerque, NM 87109. The location was used for clients or other business meetings.
- g. Clients sign a non-disclosure form that they are not government employees, nor will they show AMC materials to any government representatives.

PROBABLE CAUSE TO SEARCH 6110 Academy Road NE, Apt. 47,
Albuquerque, NM 87109

Evidence of Possession of Business and Client Records

17. All three confidential sources told IRS-CI that AMC operates out of BUSCH's residence, located at 6110 Academy Road NE, Apt. 47, Albuquerque, NM 87109. My experience and training indicate that, in the normal course of business, business records are generated and kept for at least three years.

18. BUSCH keeps client and business records at his residence. IRS-CI Special Agents observed BUSCH exiting and entering his residence carrying what was later determined to be AMC business records. On or about May 20, 2008, IRS-CI observed BUSCH exit his apartment, located at 6110 Academy Road NE, Apt. 47, Albuquerque, NM, with a black briefcase and drive to the Bank of America. At the Bank of America, BUSCH sat down with a personal banker and pulled out papers from the black briefcase. IRS-CI Special Agents overheard BUSCH making changes to two LLC bank accounts. Busch put papers from the personal banker in his black briefcase and left. BUSCH was then observed driving to 8400 Menaul Blvd. NE, 5850 Eubank Blvd. NE B-49, and 5901-J Wyoming Blvd. BUSCH was observed leaving each location with what appeared to be mail. At 5901-J Wyoming Blvd., BUSCH was observed opening private mail box # 198 and pulling out mail. BUSCH subsequently returned to his apartment complex and entered his apartment carrying the mail and the black briefcase.

PROBABLE CAUSE TO SEARCH 8515 Waterford Place NE, Albuquerque, NM

87122

Evidence of Possession of Business and Client Records

19. Two confidential sources told IRS-CI that HALLER operates her side of AMC, using a computer, out of her residence (later determined through vehicle registration and personal observation to be 8515 Waterford Place NE, Albuquerque, NM 87122). In the normal course of business, business records are typically generated and kept at the place of business for at least three years.

20. HALLER keeps business records at her residence. On or about May 23, 2008, IRS-CI Special Agents observed HALLER exiting her residence, located at 8515 Waterford Place NE, Albuquerque, NM 87122. HALLER drove directly to a hotel located near the airport, picked-up a client, and drove him to the Bank of America. HALLER entered the bank carrying a black bag. At the Bank of America, HALLER and the client sat down with a personal banker and proceeded to open two LLC accounts. HALLER was directing the client on how to wire his catering business money into one of the LLC accounts. HALLER also told the client that he would be meeting her boss after they were finished opening the accounts. HALLER proceeded to get on her phone and direct someone to open a new private mail box. While HALLER was in the bank, IRS-CI Special Agents observed what appeared to be a large red computer bag in the backseat of HALLER's vehicle. After opening the accounts and exchanging several documents, HALLER left the bank carrying her black bag and the client left the bank with a blue folder. HALLER drove the client to a business center, located at 6739 Academy Road NE, Albuquerque, NM. HALLER carried the black bag and her large red computer bag into the business center. Several hours later HALLER and the client left the business center. HALLER was carrying her black bag and large red bag. After this, HALLER and the client appeared to have completed their business transactions. HALLER proceeded to take the client to lunch and then drop him off at the mall.

21. AMC sales agents use their personal computers to present AMC promotional materials to clients. In a related case, another AMC sales agent, using a laptop computer, presented AMC promotional materials to an IRS-CI Undercover Agent. The

promotional materials were the same materials provided to IRS-CI by the confidential informants.

PROBABLE CAUSE TO SEARCH YAHOO! ACCOUNTS

WFF1001@YAHOO.COM and MIKECPILL@YAHOO.COM

Evidence of Possession of Business and Client Records

22. In a related investigation, during the execution of a search warrant in April 2006, hard copies of email correspondence were seized between wff1001@yahoo.com and clients of AMC.

23. On or about January 27, 2008, an IRS-CI Undercover Agent contacted AMC to inquire about tax seminars. "Roger" from AMC emailed the Undercover Agent several times, using the email account wff1001@yahoo.com.

24. AMC has a private client website, http://www.amcservicecenter.com. On or about January 27, 2008, "Roger" from AMC sent an IRS-CI Undercover Agent a link to this website. The website is currently registered to AMC and lists CELENZE as the technical support contact. The technical support contact email address is mikecpill@yahoo.com. The use of the above email addresses in conjunction with the AMC operation and the use of the name "Roger", combined with the other information in this affidavit, including but not necessarily limited to the information concerning the business operations and business records at the addresses mentioned elsewhere in this affidavit during the time the above email addresses have been used, provides probable cause to believe that the Yahoo! Accounts contain evidence, fruits or instrumentalities of crime.

EXPERIENCE AND EXPERTISE

25. Based on my knowledge, training and experience, including the experience of other agents with whom I have spoken, I know about the types of documents, books and records maintained by businesses, in the course of normal business operations. Based on my training and participation in other investigations involving abusive tax schemes, and the information contained in this affidavit, I know that:

- a. Businesses maintain records of income, expenses, assets and liabilities, and client files at locations normally central to their business operations.
- b. Businesses typically maintain records of income, expenses, and assets/liabilities relative to their own tax liability at locations normally central to their business operations.
- c. Businesses that provide services to clients typically maintain client information sheets, books, receipts, notes, working papers, etc., which they utilize for their records.

COMPUTER EVIDENCE

26. Based on the information provided in this affidavit, it was revealed through confidential informants that numerous computers are located at 6110 Academy Road NE, Apt. 47, Albuquerque, NM 87109.

27. Based on the information provided in this affidavit, it was revealed through confidential informants that at least one computer is located at 8515 Waterford Place NE, Albuquerque, NM 87122.

28. I have consulted with Special Agent Michael Kuehn, who has been a Special Agent with IRS-CI since January 2002. He has investigated numerous criminal investigations relating to financial crimes, including but not limited to, income tax related crimes, money laundering, wire fraud, and public corruption. Special Agent Kuehn expanded his expertise to include computer forensics, and computer crime scene investigations in January of 2007, when he received training as a Seized Computer Evidence Recovery Specialist, at the Federal Law Enforcement Training Center. He is trained in the execution of search warrants involving computers and related equipment, electronic data preservation, and the recovery, documentation and authentication of evidence. Special Agent Kuehn has taken computer related courses covering spreadsheets, word processors, and other specialized software developed to assist with the forensic analysis of digital data, digital evidence recovery, password detection, etc. Based on my consultation with Special Agent Michael Kuehn, and my training and experience, I know that computer hardware, software, and electronic files may be important to a criminal investigation in two distinct ways: (a) the objects themselves may be contraband, evidence, instrumentalities, fruits of crime, and/or (b) the objects may be used as storage devices that contain contraband, evidence, instrumentalities, or fruits of crime in the form of electronic data. Rule 41 of the Federal Rules of Criminal Procedure permits the government to search for and seize computer hardware, software, and electronic files that are evidence of crime, contraband, instrumentalities of crime, and/or fruits of crime. In this case, the warrant application requests permission to search and seize evidence of conspiracy to defraud the United States government, in

violation of Title 18, United States Code, Section 371, tax evasion, in violation of Title 26, United States Code, Section 7201, and interference with administration of Internal Revenue laws, in violation of Title 26, United States Code, Section 7212(A). This evidence constitutes evidence, instrumentalities, and fruits of crime.

Based on information provided by confidential informants, emails from "Roger" of AMC, the AMC website (<http://www.amcservicecenter.com>), and applications for EINs filed electronically with the IRS, I have reason to believe that computer equipment was used to generate, store, and print documents used for conspiracy to defraud the United States government, in violation of Title 18, United States Code, Section 371, tax evasion, in violation of Title 26, United States Code, Section 7201, and interference with administration of Internal Revenue laws, in violation of Title 26, United States Code, Section 7212(A).

29. Given that AMC continues to sell LLC packages and electronically apply for EINs with the IRS, there is reason to believe that the computer systems currently located at 6110 Academy Road NE, Apt. 47, Albuquerque, NM 87109, and 8515 Waterford Place NE, Albuquerque, NM 87122, are the same systems used to produce and store the evidence, and that records relating to AMC's criminal enterprise will be stored on these computer systems.

30. Based on my consultation with Special Agent Michael Kuehn, I know that the records may be stored on magnetic or electronic media including hard drives, diskettes, tapes, zip disks, or any other media capable of storing information in a form readable by a computer. These records may be digitally archived on internal and external hard

drives, and on other peripheral devices such as personal digital assistants, smart media cards, memory sticks, flash reader/writers, and other removable media such as CD Rom disks, DVD disks, digital tape, floppy disks, and other forms of digital storage, as described below:

a. Hardware - Computer hardware consists of all equipment, which can collect, analyze, create, display, convert, store, conceal, or transmit electronic, magnetic, optical, or similar computer impulses or data. Hardware includes any data-processing devices (such as central processing units, and self-contained "laptop" or "notebook" computers); internal and peripheral storage devices (such as fixed disks, external hard disks, floppy disk drives and diskettes, tape drives and tapes, optical storage devices, personal digital assistants, and other memory storage devices); peripheral input/output devices (such as keyboards, printers, scanners, plotters, video display monitors, digital cameras, and optical readers); and related communications devices (such as modems, cables and connections); as well as any devices, mechanisms, or parts that can be used to restrict access to computer hardware (such as physical keys and locks).

b. Software - Computer software is digital information, which can be interpreted by a computer and any of its related components to direct the way they work. Software is stored in electronic, magnetic, optical, or other digital form. It commonly includes programs to run operating systems, applications (like word-processing, graphics, or spreadsheet programs), utilities, compilers, interpreters, and communications programs.

c. Documentation - Computer-related documentation consists of written, recorded, printed, or electronically stored material, which explains or illustrates how to configure or use computer hardware, software, or other related items.

d. Passwords and Data Security - Computer passwords and other data security devices are designed to restrict access to or hide computer software, documentation, or data. Data security devices may consist of hardware, software, or other programming code. A password (a string of alphanumeric characters) usually operates as a sort of digital key to "unlock" particular data security devices. Data security hardware may include encryption devices, chips, and circuit boards. Data security software or digital code may include programming code that creates "test" keys or "hot" keys, which perform certain pre-set security functions when touched. Data security software or code may also encrypt, compress, hide, or "booby-trap" protected data to make it inaccessible or unusable, as well as reverse the process to restore it.

e. Cookies - A cookie is a file that is generated by a web site when a user on a remote computer accesses it. The cookie is sent to the user's computer and is placed in a directory on that computer, usually labeled "Internet" or "Temporary Internet Files." The cookie includes information such as user preferences, connection information such as a time and date of use, records of user activity

including files accessed or services used, or account information. The cookie is then accessed by the web-site on subsequent visits by the user, in order to better serve the user's needs.

f. Log Files - Log files are computer files that contain records about system events and status, the identity and activities of users, and anomalous or unauthorized computer usage. Names for various log files include, but are not limited to: user logs, access logs, audit logs, transactional logs, and apache logs. Logs can also maintain records regarding the identification of users on a network, as well as Internet sites accessed by the computer.

31. Based on my knowledge, training, and experience, including the experience of other agents with whom I have spoken, I know that computer files or remnants of such files can be recovered months or even years after they have been downloaded onto a hard drive, deleted or viewed via the Internet. Electronic files downloaded to a hard drive can be stored for years at little or no cost. Even when such files have been deleted, they can be recovered months or years later using readily-available forensics tools. When a person "deletes" a file on a computer, the data contained in the file does not actually disappear; rather, that data remains on the hard drive until it is overwritten by new data. Therefore, deleted files, or remnants of deleted files, may reside in free space or slack space - that is, space on the hard drive that is not allocated to an active file or that is unused after a file has been allocated to a set block of storage space - for long periods of time before they are overwritten.

32. In addition, a computer's operating system may also keep a record of deleted data in a "swap" or "recovery" file. Thus, the ability to retrieve residue of an electronic file from a hard drive depends less on when the file was downloaded or viewed than on a particular user's operating system, storage capacity, and computer habits.

33. Based on my consultation with Special Michael Kuehn, and my training and experience, I know that computer data can be stored on a variety of systems and

storage devices including hard disk drives, floppy disks, compact disks, magnetic tapes and memory chips.

34. The assigned Computer Investigative Specialist (CIS) will attempt to create an electronic "image" of all computers that are likely to store computer files representing evidence described in the warrant. Generally speaking, imaging is the taking of a complete electronic picture of the computer's data, including all hidden sectors and deleted files. Imaging a computer permits the agents to obtain an exact copy of the computer's stored data without actually seizing the computer hardware.

35. The CIS will then conduct an off-site search for the computer files described in the warrant from the image copy at a later date. If "imaging" proves impractical, or even impossible for technical reasons, then the agents will seize those components of the computer system that the CIS believes must be seized to permit the agents to locate computer files representing evidence described in the warrant at an off-site location.

Imaging may prove to be impractical for a number of reasons, including the following:

- a. Imaging computer systems is a highly technical process which requires specific expertise and specialized equipment. There are so many types of computer hardware and software in use today that it is impossible to bring to the search site all the potentially necessary technical manuals and specialized equipment needed to obtain a forensic image. In addition, it may be necessary to consult with computer personnel who have specific expertise in the type of computer, or storage device that is being imaged.

b. Imaging of computer systems requires the use of precise, scientific procedures which are designed to maintain the integrity of the evidence and to recover "hidden," erased, compressed, encrypted or password-protected data. Computer hardware and storage devices may contain "booby traps" that destroy or alter data if certain procedures are not scrupulously followed. Computer data that is particularly vulnerable to inadvertent or intentional modification or destruction, may require an image to be created in a controlled environment, such as a law enforcement laboratory to conduct a complete and accurate analysis of the equipment and storage devices from which the data will be extracted.

c. Storage capacities of storage devices are growing larger and larger. Forensic imaging of storage devices is a slow process that can take hours or even a day or more depending on the size and/or type of storage device being imaged.

36. In light of these concerns, your affiant hereby requests the Court's permission to seize the computer hardware (and associated peripherals) that are believed to contain some or all of the evidence described in the warrant, and to conduct an off-site imaging of the hardware, if, upon arriving at the scene, the agents executing the search conclude that it would be impractical to image the computer hardware on-site for this evidence.

37. If it is necessary to seize the computer system, the components will be seized and taken into the custody of the agent. If employees of AMC so request, the CIS will

work with them to provide copies of any files that may be necessary or important to the continuing function of any legitimate business. If after inspecting the computers, the CIS determines that some or all of this equipment is no longer necessary to retrieve and preserve the evidence, the government will return it within a reasonable time.

CONCLUSION

Based upon the facts set forth in this affidavit, I reasonably believe there is probable cause to believe LOVATO, CELENZE, BUSCH, and HALLER have conspired to defraud the United States government, in violation of Title 18, United States Code, Section 371, evaded taxes, in violation of Title 26, United States Code, Section 7201, and interfered with administration of Internal Revenue laws, in violation of Title 26, United States Code, Section 7212(A); and fruits and instrumentalities of these criminal offenses are currently located at 6110 Academy Road NE, Apt. 47, Albuquerque, NM 87109, and 8515 Waterford Place NE, Albuquerque, NM 87122.

38. On July 18, 2008, I drove to BUSCH's residence, located at 6110 Academy Road NE, Apt. 47, Albuquerque, NM 87109. BUSCH's vehicle was parked in his designated spot. BUSCH appeared to be still living at this location and AMC appears to be still operating as a business from this location.

On July 17, 2008, I drove to HALLER's residence, located at 8515 Waterford Place NE, Albuquerque, NM 87122. HALLER's vehicle was parked in the driveway. HALLER appeared to be still living at this location.

39. Therefore, I respectfully request the issuance of a search warrant for the premises more particularly described in Attachment A, attached hereto and fully incorporated herein, for evidence and instrumentalities more particularly described in Attachment B attached hereto and fully incorporated herein.

Dianna N. Aragon

Dianna N. Aragon

Special Agent, IRS-CI

*SWORN TO BEFORE ME
THIS 11TH DAY OF SEPT 2008.*

W.D. Schneider

W. DANIEL SCHNEIDER
UNITED STATES MAGISTRATE JUDGE