

January 2003.

23. I have discovered two types of packages. The vast majority of them are in the form of video mailer boxes which contain a single videotape. The second package type is a large manila mailer with what feels like an internal bubble-wrap liner. The size of this package indicates it could accommodate two to three videotapes to a single recipient. In addition, I have seen a large rectangular box of dimensions $21 \frac{1}{4} \times 10 \frac{7}{8} \times 7 \frac{3}{8}$. On November 29, 2002, your affiant observed a shipment of 50 videotapes contained in such a box addressed from ROSE to Sherry Peel JACKSON of Stone Mountain, GA at the Huntingdon Valley Main Post Office. The box appeared to be unopened. The exterior showed a marked-out address indicating the original sender was United Audio Video, (818) 980-6700, 6855 Vinoland Ave, North Hollywood, CA 91605 and the original recipient was Larken ROSE, 758 Huntingdon Pike, Hollywood, PA 19046-4466. Other markings on the box included, "50 count sleeve...Theft By Deception 50 Per Box...22 lbs." A review of the United Audio and Video corporate website reveals that the company specializes in mass CD and VHS videotape duplication services. Additional details concerning JACKSON will be presented below in Items 33 through 37.

24. Based on the information acquired to date, I believe that videotape orders are received by CLAYTON in Texas and are filled by ROSE in Pennsylvania. This belief is based on the observation that the payment address for the videotape is CLAYTON's P.O. Box 131925 and the fact that the "merchant account" is located in Texas. In addition, at least two shipments from United Audio and Video Group have been identified as delivered to the ROSE/DAVID residence. Also, almost two hundred (200) packages containing these videotapes have been processed by the same United States Post Office where ROSE maintains P.O. Box 653. In mid-to-late 2000, CLAYTON provided the financial capital to transform ROSE's plans for a videotape into a reality. The facts contained within this affidavit lead me to the conclusion that ROSE and CLAYTON are business partners in the Theft By Deception videotape and its related internet "enterprise" as represented by ROSE's website (TI) and CLAYTON's website (TBD).

VI(f). ROSE's INTERFERENCE with IRS CIVIL EXAMINATIONS

25. On at least two occasions, ROSE refused to produce information requested by IRS Revenue Agents in the performance of their official duties. In conjunction with the interview between Revenue Agents and ROSE to be held on September 22, 2000, an appointment letter was sent by the Revenue Agent to DAVID listing, among other things, certain documents to be used to determine the taxpayer's tax liability for the 1997 and 1998 tax years. The August 23, 2000 written response letter to the Revenue Agent included the following statement, "The records you requested in your letter are not subject to examination by the Service...as they are not relevant to any tax liability." At the interview, the following verbal exchange took place. The Revenue Agent states, "The main reason why I did request you here...When people are self-employed, normally they have general expenses. . .which they would use to offset some of the income as reported. . .I'm asking did you incur any expenses? . . ." ROSE replies, "We aren't going to cooperate with your misapplication of the law...I will not sit by and allow you to violate due process and deprive me of my property without taking every opportunity I can to stop you and that includes trying to have you put in prison for fraud and extortion. Is that clear?"

26. The second occasion occurred some thirteen months later, on October 18, 2001, when another Revenue Agent interviewed ROSE in conjunction with a "promoter" investigation of ROSE. ROSE states to the Revenue Agent, ". . .a lot of the things you request are none of your business anyway. . .you asked for my whole education background. . .you asked for the location of the machines which hold the files for my website..." Later in the conversation, the Revenue Agent states to ROSE, "...so you refuse to provide any information that was on that document request..." ROSE responds to the Revenue Agent, "...I'm giving you the parts that are relevant to the accusation you're making...I'm not giving you a copy of my high school diploma. . .I'm not giving you where all the machines are that have the information on my web site on it. . ."

VI(g). ROSE'S ROLE AS WITNESS at OTHER TAXPAYERS'
EXAMINATIONS

27. ROSE has attempted to corruptly interfere with, and impede, the administration of internal revenue laws with regard to other taxpayers' dealings with the IRS as well and apparently has acted conspiratorially with some of them. An interview of taxpayer JG was conducted by Revenue Agents in Sarasota, FL on April 3, 2000. The last year in which the taxpayer, JG, filed a tax return was 1995. ROSE was present at the interview as one of JG's witnesses as were two additional witnesses. ROSE tried to take control of the interview in its early stages. The Revenue Agent explained that the witnesses would only be allowed to speak through JG. The Revenue Agent states in his memorandum of May 14, 2002, "Rose was unable to contain himself and have [JG] ask the questions. On more than one occasion Rose would ask the questions concerning § 861. I told Rose and [JG] that I would only respond to questions from [JG]. Then [JG] would restate the questions that Rose had just asked. . . Although Rose was supposed to be in the interview as only a witness, in my opinion he was being an advocate of the § 861 argument for [JG]...the person formulating the plans and deciding which questions to ask and in what order was Rose." Throughout the course of the interview, the only information that JG provided to the Revenue Agent was confirmation of his address and Social Security Number. JG stated that all other information requested, i.e. books and records from his businesses, were "not relevant" to the interview. The interview was ended when JG, "on coaking from Rose," refused to accept the Revenue Agent's statement that the entire Tax Code and Regulations would be used to determine JG's tax liability.

28. Another such meeting that ROSE attended as witness was an examination interview with Revenue Agents from Harrisburg, PA and taxpayer JH on February 28, 2001. The interview concerned JH's 1997 Form 1040X seeking to recoup all federal income taxes paid for that year. The following statements are taken from a transcript of the interview as posted to ROSE's website (TI). Prior to the interview, JH sent the Revenue Agents a list of twelve (12) points he wanted to cover in the meeting. These points relate, in large part, to the § 861 claim made by ROSE. Throughout the meeting, ROSE makes repeated reference to getting the IRS

position to the twelve points on the "record." Once ROSE is satisfied that he has received as much information on the twelve points as possible, JH makes a formal request for technical advice on the § 861 issue. This is the same approach that was unsuccessful for ROSE in the past. JH provides the Revenue Agent with ". . . a waiver regarding deletions from technical advice. . . ." and ROSE adds, "It's a procedural thing that are in the tech advice procedures, that'll come up." I believe that ROSE used this examination meeting as an opportunity to get IRS reactions to his own views "on the record," thereby corruptly interfering with, and impeding, the administration of the internal revenue laws and their application to JH.

A memorandum summarizing the meeting was prepared by the Revenue Agent on February 27, 2003. The Revenue Agent writes, "During the course of the interview it was clear to me that Mr. Rose was more than a witness. Mr. Rose continually added comments and attempted to direct the examination. Several times during the exam the taxpayer looked to Mr. Rose for direction." The Revenue Agent adds, "Clearly Mr. Rose acted as a representative of the taxpayer offering advice, asking questions and attempting to influence the direction of the examination. It was obvious that [JH] was well coached before appearing for this interview."

VI(b). OTHER TAXPAYERS' RELIANCE ON ROSE'S FALSE CLAIMS

29. I further believe that individual taxpayers are relying on ROSE's false claims. One such taxpayer is GM of Clearwater, FL. On September 12, 2002, taxpayer GM wrote a letter to the Revenue Agent handling an income tax examination of his federal tax returns where he claims his income and tax to be zero. In the letter, GM states, "I have adopted the attached 'Taxable Income' report...as an integral part of my information furnished you in support of all my communications with you and tax returns filed with the service. 'Taxable Income' by Larken Rose is sufficient information and research to rely on to support the -0's- reported on the tax forms 1040, 1120, 1065 that we have met on." GM included a copy of the April 15, 2002 version of the 'Taxable Income' report with his letter.

30. On September 18, 2002, taxpayer WK of Effort, PA wrote a letter to the Revenue Officer who placed a lien on his property for failing to file income tax returns after 1993. WK makes several references to the § 861 argument and utilizes much of the same language that ROSE uses on ROSE's website (TI) and CLAYTON's website (TBD). In fact, WK makes specific reference to both of these websites in his letter after he writes, "You refuse to honestly address the issue, and instead resort to threats, evasions and accusations, because their own law books expose the biggest financial fraud in history..." WK's letter states, "You must release the Fraudulant (sic) Federal Tax Lien you placed on my property within 48 hours of receipt of this letter or I will come after you...I justify my threat to use deadly force and I believe it to be necessary as my duty as an American to place you under citizens arrest. . . I know where you live...I will come after you. . ." WK was arrested by TIGTA in relation to these threats.

31. As posted to ROSE's website (TI), a third individual, GS, was present as a witness for ROSE's April 18, 2000 interview with Jenkintown Revenue Agents. At the time, GS resided less than four miles from the ROSE/DAVID residence. Less than a month before GS appeared as a witness at ROSE's examination interview, he wrote a letter to the IRS in which he states the following, "It has come to my attention that the source of my income affects whether it is taxable or not, and, according to 26USC861. . . none of the sources listed apply to me. On the strength of this finding, I hereby submit amended returns for the years 1996, 1997 and 1998." The amended returns sought to recoup all federal tax paid in those years. In April 2001, the IRS responded to GS with a determination that the amended returns were frivolous. Within a month of this IRS notification, GS responded to the IRS with a letter which includes the following statement, ". . .the employee responsible for sending that letter is personally responsible and individually liable for both civil and criminal penalties, if such misconduct is not immediately remedied." This three page response letter to the IRS dated May 21, 2001 is identical in all material respects to a letter written by ROSE to the IRS after his 1996 amended return was determined to be frivolous in March 2001. The only material changes to the document involve reference to taxpayer GS, instead of

ROSE, and a different addressee as the IRS employee contact. The dates on both ROSE's and GS' letter are identical. In addition, GS enclosed multiple ROSE documents as support for his claim. Finally, GS was present as a witness for ROSE's October 18, 2001 interview regarding the "Promoter" investigation on ROSE.

VI(i). ROSE'S NON-VIOLENT THREATS TO IRS EMPLOYEES

32. On several occasions, ROSE threatens IRS employees with both civil and criminal penalties and the filing of complaints against the employee with TIGTA simply for the IRS employee doing their job. The following are examples of these threats:

- 32.1 In an August 23, 2000 letter to the Jenkintown, PA Revenue Agent assigned their case, ROSE and DAVID state, "We have filed a formal complaint against you to TIGTA regarding your intentional disregard of Treasury regulations and published Service policy in connection with our claims for refund for 1994 and 1995..." Later in the letter, they state, "Having been shown these citations...and allege a tax liability for the purpose of depriving us of our property, we will have no choice but to file a criminal complaint against you, for willful extortion under 'color of law.'"
- 32.2 At the interview conducted on September 22, 2000, ROSE threatens the IRS personnel with, "When I show you the statutes...over and over and over again, telling you to use those sections, and you don't, that is a felony."
- 32.3 In a September 28, 2000 letter written to the Group Manager of the Jenkintown Revenue Agents, ROSE states, "You are the one attempting to misapply the law against me, and therefore I can only take legal action against you personally."
- 32.4 In a December 23, 2000 letter addressed to "Sirs" at the Philadelphia Service Center,

ROSE and DAVID write, "We advised, if the IRS attempts to follow through on its threats to levy. . . without providing due process of law. . . we will use every legal means possible to retaliate against those responsible. Such an action would clearly be grounds for dismissal per RRA 1998."

- 32.5 On May 21, 2001 after the IRS informed ROSE that it considered his 1996 Form 1040X to be "frivolous," ROSE responds, ". . . the employee responsible for sending that letter is personally responsible and individually liable for both civil and criminal penalties if such misconduct is not immediately remedied."
- 32.6 On October 8, 2002, ROSE wrote a letter responding to a second Revenue Agent in the Jenkintown Office who informed ROSE that the Appeals Office refused to grant appeals consideration to ROSE and DAVID's 1994 through 1996 claims for refund. ROSE writes, "Please supply me with the name and mailing address of the Appeals officer...so that I may file a formal complaint against him/her for this glaring violation of due process."

VII. MATERIAL INVOLVEMENT of SHERRY PEEL JACKSON

33. As discussed above, Sherry Peel JACKSON has been identified as a business associate, and possible co-conspirator, in ROSE's attempt to defraud the United States. JACKSON is a former IRS Revenue Agent from the Atlanta, GA area as well as a Certified Public Accountant. A recent review of IRS database records reveal that Jackson has not filed federal income tax returns from 1996 to 2001.

34. JACKSON appeared as a "call in" guest to Aurora, IL "talk" radio station WRIQ 1280 AM on February 13, 2003 in conjunction with a special series called "Truth In Taxation Week." At my request, a Special Agent from Internal Revenue Service-Criminal Investigation, Chicago Field Office audio recorded her radio appearance and made a copy of the audio recording available to me. JACKSON claims to have an eighteen (18) month plan "to eliminate" the IRS. When asked

by the host how she came up with the hor eighteen (18) month plan, she responded by reading "The Art of War" and "...getting correspondence from Larken Rose concerning the way we communicate our position..." JACKSON goes on to explain that her plan is "very simple" and it begins with "everyone in this country to get a copy of the Theft By Deception video from Larken Rose, that's theftbydeception.com, that's his website. . .". JACKSON also stated that "Larken has, in my opinion, the Theft By Deception video which is the best formulation of information on the income tax misapplication...the video tells why we don't owe and how we got tricked into thinking we owe..."

35. In a section entitled "Testimonials" on CLAYTON's website (TBD), the following quote is attributed to "Sherry Peel Jackson, CPA, former IRS Revenue Agent," "This tape will show you clearly and without a doubt that most American citizens are not liable for the income tax."

36. In addition, in conjunction with a mail cover in effect on P.O. Box 131925, The Woodlands, TX 77393, postal authorities recorded an inbound mail piece with a return address of Orange, TX and an addressee of "Sherry Jackson (TBD.com)" with a postmark date of January 21, 2003.

37. The search of discarded trash from the ROSE/DAVID home performed on January 28, 2003 revealed the following note, "Hi...4 Videos...Sherry" A second search of discarded trash from the ROSE/DAVID home performed on February 4, 2003 revealed an empty United States Postal Service Priority Mail Envelope from JACKSON to ROSE. Based on the above information, your affiant believes that JACKSON is performing an active marketing role in the distribution of the videotape, Theft By Deception.

Dr. Charles Thomas CLAYTON of The Woodlands, TX, as described in Items above, plays an even more significant role in ROSE's active attempt to corruptly interfere with, and impede, the administration of internal revenue laws than does JACKSON. A review of additional facts concerning CLAYTON's involvement is provided in sections below.

VIII. CLAYTON BACKGROUND

38. Dr. Charles Thomas "Tom" CLAYTON, 50, and Donna Clayton, 49, husband and wife, reside at 15 Mirror Ridge Drive, The Woodlands, Texas. CLAYTON is a radiologist by specialty, currently practicing at an imaging center in Houston, TX. His wife, Donna, appears to be a homemaker. The couple has three children, who reside with them. IRS databases reveal that CLAYTON has not filed any federal income tax returns for years 1999 through 2001. In addition, CLAYTON filed Forms 1040X amended federal income tax return for tax years 1997 and 1998.

39. CLAYTON's long history of conflicts with the IRS resulted in a criminal investigation conducted in 1995 and 1996, which culminated in prosecution in the latter year in the Eastern District of Texas. The investigation revealed that CLAYTON failed to file his 1992 and 1993 federal income tax returns timely. He was sentenced in January 1997 to one (1) year probation for committing one count of willful failure to timely file a federal income tax return relating to the 1992 taxable year. CLAYTON, at the time an investor in an Arizona-based abusive trust scheme, agreed to cooperate with the government by testifying against the promoters of the scheme. IRS Criminal Investigation, Phoenix Field Office conducted the investigation into the abusive trust scheme. In conjunction with that investigation, CLAYTON was interviewed by Special Agents of the Phoenix Field Office on January 11, 1995. During the course of that interview, CLAYTON provided his educational background to the Special Agents. CLAYTON stated that he received a Bachelor of Arts in Mathematics from the University of Texas in 1974 and a M.D. from Southwest Medical School in 1978. In addition, CLAYTON received his radiology board certification in June 1982. His wife Donna Clayton's educational background is unknown as of the writing of this affidavit.

40. This interview also provides insight into how CLAYTON first developed his anti-tax views. Two IRS audits of CLAYTON, conducted in the mid-to-late 1980's, resulted in substantial tax assessments against CLAYTON. As a result, CLAYTON developed an interest in establishing a trust to protect his income and assets from creditors and the IRS in 1990 and 1991. Shortly thereafter, CLAYTON was introduced

to an anti-tax organization named the "Pilot Connection Society." From this introduction, CLAYTON was given the names of individuals that could set up trusts that would protect his income and assets. One of these individuals was Doug Carpa. CLAYTON contacted Carpa and explained his on-going problems with the IRS. Carpa recommended that CLAYTON become "untaxed" by establishing trust accounts and no longer filing federal income tax returns. In the interview, CLAYTON stated that he was frustrated with how the IRS treated him during his audits and was resisting the payment of his tax debt. As a result of CLAYTON accepting Carpa's advice and utilizing his services, CLAYTON failed to file his 1992 and 1993 federal income tax returns timely. CLAYTON's dire financial straits forced him to file for bankruptcy on two occasions. His first bankruptcy filing was a Chapter 7 case filed in September 1992 and the second bankruptcy filing was a Chapter 11 case filed in February 1994.

IX. CLAYTON'S CLAIMS FOR REFUND FOR YEARS 1997 and 1998

41. In April of 2001, CLAYTON filed a Form 1040X amended federal tax return for tax year 1997. This 1997 Form 1040X was signed by CLAYTON and his wife on April 10, 2001 and received by the IRS on April 18, 2001. One year later, in April of 2002, CLAYTON filed a Form 1040X amended federal tax return for tax year 1998. This 1998 Form 1040X was signed by CLAYTON and his wife on April 6, 2002 and received by the IRS on April 16, 2002. The adjustments claimed in these amended returns would have reduced the amounts of income and tax to zero. The 1997 Form 1040X requested a refund of \$82,296 representing taxes only while the 1998 1040X return requested \$85,300 representing both taxes and penalties. IRS databases reflect that CLAYTON earned gross income of \$272,236 and \$289,305 in tax years 1997 and 1998 respectively as represented on Forms 1099-MISC.

42. Furthermore, each of the amended federal income tax returns was accompanied by a copy of ROSE's "Taxable Income" Report as well as supporting documentation referencing the § 861 claim. This supporting documentation includes a discussion of the Internet and the fact that its gaining popularity has facilitated the study of federal income tax laws. After reviewing these laws in the context of IRC § 861, CLAYTON claims that his income is not subject to the

federal income tax. CLAYTON makes the following statements on his "Attachment to 1998 1040X Tax Return," "When my 1998 1040 federal income tax return was filed on the 'advice' of my CPA, I had never seen the laws that others 'told' me required me to pay federal income taxes." CLAYTON makes additional statements in the "Attachment" to include: ". . .the law means what the words say, not what some courts 'think' the law says. . ." and ". . . 'case law' below the level of the Supreme Court is worthless, as it is full of mistakes. . ." I believe that CLAYTON has adopted ROSE's false §61 claim as his own notwithstanding his prior conviction for violating internal revenue laws and his own admission that a CPA provided advice to him that he was required to file and pay federal income taxes. The IRS did not refund the taxes and penalties.

X. CLAYTON'S MATERIAL INVOLVEMENT in ROSE'S ATTEMPT to CORRUPTLY INTERFERE and IMPEDE

43. CLAYTON's involvement in ROSE's efforts is described in significant detail in Section VI, ROSE's Attempts to Defraud the United States, of this affidavit. The investigation has revealed additional pertinent facts and circumstances, resulting from a business registration document filed with the Montgomery County (TX) Clerk's Office, a United States Postal Service mailcover conducted on CLAYTON's P.O. Box 131925, CLAYTON's Power of Attorney, and information regarding the new website www.861Evidence.com. Special Agent Avery of the Houston Field Office identified the fact that, on April 16, 2002, CLAYTON registered an Assumed Name Certificate for an unincorporated business named thefthydeception.com. I performed an internet search of the Montgomery County (TX) website on March 11, 2003 and identified a webpage entitled, "County Clerk, Assumed Names/DEA Fees." This webpage, www.co.montgomery.tx.us/clerk/ccdba.shtml, reads in part, "To start a business in the State of Texas, one needs to get an Assumed Name Certificate. Commonly known as 'doing business as', most banks require an Assumed Name Certificate to open a business bank account." I believe that CLAYTON filed this Assumed Name Certificate in order to open a business bank account.

44. A mailcover was performed on CLAYTON's P.O. Box 131925 from mid-January to mid-February 2003. This P.O. Box is the same address as the one appearing on CLAYTON's website (TBD) in the videotape order payment section of the website. Incoming mail to the P. O. Box was recorded on nineteen (19) days during this time period. In total, sixty-five (65) pieces of mail were delivered to the P.O. Box. All mailpieces were addressed to one of the following (as recorded): theftbydeception, theftbydeception.com, Sherry Jackson (TBD.com), and "131925." I identified that four of the mailpieces were addressed from Woodforest National Bank to either theftbydeception or theftbydeception.com. Deposit tickets from this same bank, Woodforest National Bank, were also identified in the search of discarded trash performed at the CLAYTON residence on March 3, 2003 by Special Agent Avery of the Houston Field Office. The vast majority of the remaining sixty-one (61) mailpieces were postmarked from around the United States including one from Alaska.

45. Starting on February 18, 2000, the IRS began receiving filings registering CLAYTON's Power of Attorney (POA) as Joseph BANISTER, CPA. The first such filing related to tax year 1998 only. Over the next three years, BANISTER was registered as CLAYTON's POA for tax years 1986 through 1997 and 1999 through 2002 as well. BANISTER is a former Special Agent, IRS Criminal Investigation from Northern California. Since his departure from the IRS, BANISTER has become an anti-tax advocate in his own right. In a section entitled "testimonials" on CLAYTON's website (TBD), the following quote is attributed to "Joseph R. Banister, CPA, former IRS Special Agent," "This video is a must see for income tax professionals, income tax enforcers and administrators, and the average American who expects nothing less than truthfulness in taxation. Theft By Deception offers a peek at 'the smoking gun called 861*.'"

46. IRS Criminal Investigation, Oakland Field Office is currently conducting a criminal investigation of BANISTER and an alleged co-conspirator named Al THOMPSON aka Walter THOMPSON. In conjunction with this investigation, Special Agents of the Oakland Field Office have identified five (5) email communications between BANISTER and THOMPSON discussing email communications between THOMPSON and ROSE. In addition, ROSE provided THOMPSON with a template letter

to be sent to former IRS Commissioner Rossotti relating to the § 861 claim. Finally, the investigation revealed that THOMPSON told BANISTER that ROSE is a member of THOMPSON's email distribution group. CLAYTON's involvement with BANISTER with ties back to ROSE is yet one more indication that CLAYTON is subscribing to an anti-tax position. This position, in turn, has led to active support of ROSE's attempt to corruptly interfere with, and impede, the internal revenue laws.

47. Finally, over the last two months, Special Agent Avery of the Houston Field Office has been monitoring a Yahoo!Groups internet chat board entitled "legality-of-income-tax." An internet chat board is a forum allowing internet users to view, and post, messages concerning a given topic. On this particular chat board, a poster identified as "Dr.Tom" utilizing email address "ironman@..." recently posted a message. I believe that this e-mail address belongs to CLAYTON even though Yahoo!Groups does not provide full e-mail addresses for message posters as part of their privacy policy.

The email address "ironman@excessiron.org" is represented on the internet registration website www.samspace.org as belonging to CLAYTON. The recent message posted on March 7, 2003 states in part, "...The Treasury Department knows that we know and they know that they are doomed as the public becomes better informed. . .In a month or so, you can go to our new website: www.861evidence.com which will have more goodies to help everyone understand the deception more easily. . .Tom Clayton, MD. . .".

I believe the poster of this message to be CLAYTON. A search of the website www.861evidence.com using www.samspace.org was conducted on March 24, 2003 and revealed that the website www.861evidence.com is registered to: Taxable Income, Tom CLAYTON, MD, 15 Mirror Ridge Drive, The Woodlands, TX 77382. CLAYTON is listed as the administrative contact for the website as well. This website was first registered on February 15, 2003. As of the writing of this affidavit, there is no content available on the website, but it is your affiant's belief that there is probable cause to believe that both ROSE and CLAYTON are involved in this undertaking.

XI. PROBABLE CAUSE FOR RECORDS AT 758 HUNTINGDON PIKE

48. I have probable cause to believe that records, as set forth in Attachment A, representing evidence of violations of Title 26, United States Code § 7201, § 7203, § 7206(1) and § 7212(a) as well as Title 18, United States Code § 287 and § 371 exist at the ROSE/DAVID residence. This belief results from a United States Postal Service mailcover, searches of discarded trash from the ROSE/DAVID residence performed on January 28, 2003 and February 4, 2003 and a surveillance performed on the ROSE/DAVID residence on March 4, 2003.

48.1 The mailcover, performed substantially in January 2003, revealed mail delivered to the residence from the following:

- Financial institutions including: Willow Grove Bank, Chase, Bank 1, Citibank, Nation's First Financial, Chase, Discover Card, Assurant Group;
- Utility companies including: PECO, Verizon, AT&T;
- Saturn Corporation;
- United Audio/Video Group;
- Sherry Peel Jackson, CPA; and
- Tom Clayton, MD.

48.2 Searches of discarded trash on the days identified above revealed the following:

- Empty Box for Black Ink Cartridge for Epson Stylus Printer;
- Note from "Sherry" concerning videotapes;
- Note from Abington Medical Specialists regarding medical transcription instructions;
- Several blank forms containing the words,

"Typist:...Filename:...Doctor..." most likely used in performance of medical transcription duties;

- Sheet of blank letterhead from "Christopher M. Pezzi, MD" of Abington Memorial Hospital;
- Backing and "tab" from empty checkbook;
- Several blank Avery shipping labels, Laser 5263 with "Smooth Feed Sheets";
- Post-It Notes with initials, state names and dates. Post-Its with "Docs at Einstein" and "Rittenhouse Medical Bookstore" written on them;
- Packaging for 8 Jiffylite cushioned mailers #5 from Staples;
- Two Theft By Deception Videos;
- Verizon DSL start-up instructions for new modem and account;
- Empty Box of Avery White Mailing Labels that strongly resemble return address labels placed on outgoing packages containing videotapes;
- Delta Airlines Boarding Card in name Larken ROSE, Atlanta to Philadelphia dated December 18, 2002;
- Room check in slip for a Hyatt Hotel stay from 12/16/2002 to 12/17/2002;
- 10-13 gallon white trash bag filled with shredded paper. Contents appear to be shredded work product from medical transcription business as shredding bears letters "M.D.";
- 01/04/1999 Receipt from Abington Post Office reflecting purchase of stamps; and

• Business Card from "Orthopaedic Specialty Center.

48.3 A surveillance at the ROSE/DAVID residence was performed by seven Special Agents of the Philadelphia Field Office on March 4, 2003. This surveillance provides probable cause that ROSE and DAVID's medical transcription business is operated from their residence and that records sought in conjunction with this search warrant affidavit will be present in their residence.

48.3.1 Surveillance was established at 6:00 am, United States Postal Service delivers mail to ROSE/DAVID residence in mid-morning.

48.3.2 No one emerges or enters home until 12:00 pm. At that time, ROSE departs residence with female child. ROSE is observed driving to convenience store and then returning to residence.

48.3.3 An unidentified individual is observed departing the ROSE/DAVID residence carrying envelopes and folders.

48.3.4 A Federal Express delivery, in the form of a small package or envelope, is left on the front porch of the residence. Special Agents observed the front door open and an unidentified individual pick up the item and bring the item inside the residence.

48.3.5 The surveillance was concluded at 3:20 pm.

49. This surveillance provided no indication that ROSE and/or DAVID maintain, or travel to, an outside office. I recently performed a telephone directory check for medical

transcription services operating in and around Hollywood, PA utilizing www.superpages.com, a website operated by Verizon, the local telephone service provider. The search produced no business listings connected to ROSE and/or DAVID. Further, ROSE and DAVID's 1995 Form 1040 Schedule C listed their residential address as the address of record for their medical transcription business. Based on the above information, I believe both that ROSE and DAVID participate in their medical transcription business and ROSE participates in his tax-related enterprises from the ROSE/DAVID residence located at 758 Huntingdon Pike, Hollywood, PA. As a result, I have probable cause to believe that financial and other records, as set forth in Attachment A, that are evidence of violations of Title 26, United States Code § 7201, § 7203, § 7206(1) and § 7212(a) as well as Title 18, United States Code § 287 and § 371 are present at 758 Huntingdon Pike, Hollywood, PA 19046.

XII. SEARCH FOR COMPUTER EVIDENCE

50. Based on the foregoing facts, there is probable cause to believe that one or more computers, and associated equipment will be found at 758 Huntingdon Pike, Hollywood, Pennsylvania 19046, which is the personal residence of Larken ROSE and Tessa DAVID. Based on my personal experience and on my discussions with those trained in forensic computer analysis who have analyzed evidence from computers in prior investigations, searching computerized information for contraband or evidence or instrumentalities of crime commonly requires that a qualified computer expert accurately retrieve the system's data in a laboratory or other controlled environment. This is true because of the following:

- 50.1 The volume of evidence. Computer storage devices (such as RAM, hard disks, diskettes, tapes, laser disks, Bernoulli drives) can store the equivalent of thousands of pages of information. Additionally, a suspect may try to conceal criminal evidence; he might store it in random order with deceptive file names. This may require searching authorities to examine all the stored data to determine

which particular files are evidence or instrumentalities of crime. This sorting process can take weeks or months, depending on the volume of data stored and it would be impractical to attempt this kind of data search on site.

50.2 Technical requirements. Searching computer systems for criminal evidence is a highly technical process requiring expert skill and a properly controlled environment. The vast array of computer hardware and software available requires even computer experts to specialize in some systems and applications, so it is difficult to know before a search which expert is qualified to analyze the system and its data. In any event, however, data search protocols are exacting scientific procedures designed to protect the integrity of the evidence and to recover even "hidden," erased, compressed, password protected, or encrypted files. Because computer evidence is extremely vulnerable to inadvertent or intentional modification or destruction (both from external sources or from destructive code embedded in the system as a "booby trap"), a controlled environment is essential to its complete and accurate analysis. In addition, information and data stored in an electronic format may be "encrypted" which means it is unreadable absent use of a password or key to "decrypt" the information. Also, specialized equipment, which cannot be transported easily to every search site, may be required in order to review information stored in an electronic format on certain computer equipment or computer peripherals.

For these reasons I request permission to remove the computer so that a qualified computer examiner can examine it in an appropriate facility.

51. Based on my experience and my discussions with forensic computer analysts I understand that the analysis of electronically stored data, whether performed on-site or in

a laboratory or other controlled environment, may entail any or all of several different techniques. Such techniques may include, but shall not be limited to, surveying various file "directories" and the individual files they contain (analogous to looking at the outside of a file cabinet for the pertinent files and at file titles, in order to locate the evidence and instrumentalities authorized for seizure by the warrant); "opening" or reading the first few "pages" of such files in order to determine their precise contents; "scanning" storage areas to discover and possibly recover recently deleted data; scanning storage areas for deliberately hidden files; or performing electronic "keyword" searches through all electronic storage areas to determine whether occurrences of language contained in such storage areas exist that are intimately related to the subject matter of the investigation. We anticipate these techniques may be employed in this case.

52. Based on my experience and my discussions with forensic computer analysts I understand that it is often useful to have the peripheral equipment that the subject had used with the seized computer in order to assist in properly searching that computer. Also, I understand that it is often useful to have the instructions, manuals, operating instructions, and other literature for the computers or storage devices in order to assist in the search of those computers and devices. These documents are usually received by the purchaser of the device and maintained by him with the device.

53. If, after inspection of any seized computer equipment, the computer analysts determine that the items are no longer necessary to retrieve and preserve the data evidence, the Government will return them within a reasonable time.

XIII. CONCLUSION

Based on the foregoing facts, I have probable cause to believe that:

(a) ROSE and DAVID have attempted to evade or defeat a tax and the payment of taxes, in violation of Title 26, United States Code, § 7201, have failed to file Federal Income Tax Returns in violation of Title 26 United States Code, § 7203, for the years 1997 through 2001. Additionally, as a result of both a recent IRS database check and the facts and circumstances of this investigation, I have probable cause to believe that neither ROSE nor DAVID have filed any tax return, made request for extension with regard to filing any tax return or made payment in relation to their filing requirement and/or tax obligation for tax year 2002.

(b) ROSE and DAVID have made and subscribed to false returns, in violation of Title 26, United States Code, § 7206(1) and have made and presented false claims against the United States in violation of Title 18, United States Code, § 287 for the tax years 1994 through 1996.

(c) ROSE has attempted to corruptly interfere with, and impede, the administration of internal revenue laws in violation of Title 26, United States Code, § 7212(a) and has conspired with one or more individuals to commit this offense in violation of Title 18, United States Code, § 371.

(d) There is probable cause to believe that evidence of these crimes, as set forth in Attachment A, exists in the residence of Larken ROSE and Tessa DAVID at 758 Huntingdon Pike, Hollywood, PA.

ATTACHMENT A

For the period of 1994 through the present, the following records, documents, materials and/or files, whether in paper form or in the form of computerized electronic data, in the name of, on behalf of, or related to:

1. Larken D. Rose
2. Tessa K. David (Rose)
3. Charles T. Clayton or Charles Thomas Clayton or Tom Clayton or any derivative thereof.
5. Donna A. Clayton
6. "Theft By Deception"
7. "Theft By Deception.com"
8. "Taxable Income"
9. "Taxable Income.net"
10. "861 Evidence.com"
11. Other Trust, Nominees and/or Business entities used by Larken D. Rose and/or Tessa K. David (Rose)

1. All accounting and bookkeeping records and all supporting source documents, including, but not limited to, records relating to cash receipts, cash expenditures, general journals and ledgers and any subsidiary journals and ledgers, accounts and notes receivable, accounts and notes payable, sales journals, balance sheets, gross receipts and income statements, statements, statements of profit loss, bad debt records, cost of goods sold records, all invoices documenting expenses paid by currency or check, payroll ledgers and related records, and any other accounting records;

2. Individual and business bank account records, including savings accounts, checking accounts, credit card accounts, retirement accounts, and certificates of deposit and money market accounts, including but not limited to: passbooks, bank statements, signature cards, copies of monthly, quarterly and or yearly statements of accounts, copies of deposit and withdrawal tickets, deposit and withdrawal items, credit memos, cancelled checks, loan applications and any related financial statements, mortgage and or promissory notes, copies of loan ledger accounts, annual loan statements, applications for bank drafts, cashier's checks, wire transfer receipts, money order receipts and purchases and any other documents indicating banking activities;

3. Inventory records, including inventory sheets, work papers, and valuation records, documents reflecting the

Accordingly, I respectfully request the issuance of search warrant for the premises of 758 Huntingdon Pike, Hollywood, PA for the items listed on Attachment A. Because documentary evidence is sought at all locations, and documentary evidence is easily transportable, authority is sought to search any outbuildings and garages on the premises.



Donald Pearlman, Special Agent
Internal Revenue Service

SWORN and subscribed to before me this ^{5th} day of *May*
2003.


UNITED STATES MAGISTRATE JUDGE