

AFFIDAVIT OF WILLIAM T. NOONAN, JR.

I, William T. Noonan, Jr., being duly sworn, hereby depose and state as follows:

1. I am employed as a special agent with the Criminal Investigation Division of the Internal Revenue Service, United States Department of Treasury (“IRS-CI”) and have been so employed since June of 2009. My duties as an IRS-CI special agent include the investigation of criminal violations of the Internal Revenue laws and related statutes. From June 2009 through December 2009, I attended the Federal Law Enforcement Training Center in Glynco, GA where I received training in conducting financial investigations and in IRS-CI policies and procedures. I also received training in the use of law enforcement techniques such as search and seizure warrants. During my career as a special agent I have participated in the execution of numerous search and seizure warrants relating to various criminal violations. From August 2004 through June of 2009, I was employed as a revenue agent with the Internal Revenue Service (“IRS”). As an IRS revenue agent, I reviewed and conducted audits of business and individual tax returns to determine whether the entities and individuals filing those returns reported and paid the correct amount of federal tax. I hold Bachelor degrees in Accounting and Finance from Boston College and a Masters in Business Administration from Suffolk University. I also hold a Juris Doctorate from New England School of Law and Masters of Law in taxation from Boston University.
2. I submit this affidavit in support of a criminal complaint charging Theodora Panousos (“Dora”) and Konstantinos Panousos (“Kosta”) with corruptly concealing a record, document or other object, and attempting to do so, with the intent to impair the object’s

integrity or availability for use in an official proceeding in violation of Title 18, United States Code, Section 1512(c). Specifically, as set forth below, I have probable cause to believe that on February 15, 2017, Dora and Kosta concealed records, documents or other objects from safe deposit box number 53 located at Santander Bank at Peabody Place located at 300 Andover Street in Peabody, Massachusetts and attempted to conceal records, documents or other objects from safe deposit box number 866 at Santander Bank located at 16 Centre Court in Lynnfield, Massachusetts.

3. I am familiar with all the information described in this affidavit through my participation in this investigation including a review of records, a review of federal tax returns, conversations with witnesses and information gained from my training and experience. This affidavit is submitted to establish probable cause for the requested criminal complaint and does not include everything I know about the investigation.

The Tax Investigation Relating to Giovanni's Roast Beef & Pizza

4. I am currently investigating Dora, Kosta and others for attempting to evade or defeat the assessment or payment of tax in violation of 26 U.S.C. §7201, filing false tax returns in violation of 26 U.S.C. §7206(1) and assisting in the preparation of false tax returns in violation of 26 U.S.C. §7206(2) for the years 2010 through the present.
5. On August 12, 1986, William Panousos ("Panousos"), who is Dora's husband and Kosta's father, along with another individual, Nikolaos Karambelas ("Karambelas"), purchased Giovanni's Roast Beef & Pizza located at 672 Lowell Street, Peabody, Massachusetts (hereafter "Giovanni's"). Panousos and Karambelas created K&P Food Service, Inc. ("K&P") and incorporated K&P on August 12, 1986 in Massachusetts to operate Giovanni's. In 1989, Panousos purchased Karambelas's interest in K&P, and

thereafter Panousos and Dora each owned a 50% interest in Giovanni's. On June 30, 2014, Panousos transferred his 50% to interest to his son, Kosta. On July 1, 2014, Konstantine Restaurant Group, Inc. ("KRG") was incorporated in the state of Massachusetts by Kosta for the purpose of operating Giovanni's. Kosta and Dora were 50% shareholders of KRG.

6. KRG reports its income and expenses each year on a Form 1120S, U.S. Income Tax Return for an S Corporation. As an S-Corporation, its profits and losses are passed directly to its shareholders, Kosta and Dora, who are then taxed at their respective individual rates when they file their individual tax returns.
7. On February 14, 2017, this Court issued warrants to search, among other locations, 24 Bow Street in Peabody, Massachusetts ("the First Warrant"). The application and affidavit in support of the First Warrant, case captioned *In the Matter of the Search of The Residence of William Panousos, 24 Bow Street, Peabody, Massachusetts*, case number 17-MJ-6008-MPK, are incorporated herein by reference.
8. As set forth in the affidavit in support of the First Warrant, the investigation thus far has determined that Giovanni's receives gross income far in excess of what it reports to the tax authorities. It is able to conceal that income by paying for a large portion of its food expenses in cash, enabling it to report to the tax authorities the smaller portion which it pays by check. That gives the false appearance of Giovanni's being a much smaller business than it actually is, thus raising no red flags with tax authorities when Giovanni's reports only a proportionally similar portion of its actual gross receipts.

Search Pursuant to the First Search Warrant and Service of Subpoenas to Dora & Kosta

9. The First Warrant authorized the seizure, among other things, of “records and tangible objects pertaining to the payment, receipt, transfer, or storage of money or other things of value.”
10. The First Warrant was executed at 24 Bow Street, Peabody, Massachusetts, on February 15, 2017, beginning at about 6:50 a.m. and concluding at about 10:20 a.m. In the course of the execution of the First Warrant, IRS agents discovered safe deposit box keys, including two from Santander Bank.
11. Dora was present during the search of 24 Bow Street. Dora was given a copy of the inventory of items seized, which included the safe deposit box keys. During the search, Dora was also served with grand jury subpoenas for documents in her capacity as a custodian of records of Konstantine Restaurant Group, Inc. and K&P Food Services, Inc. The subpoenas required these entities to produce, among other things, for the time period from 2010 through the present:

All records and tangible objects pertaining to the payment, receipt, transfer or storage of money or other things of value by the following business: K&P Food Service, Inc. (Giovanni’s in Peabody), Konstantine Restaurant Group LLC (Giovanni’s in Peabody).
12. Also on February 15, 2017, the premises of Giovanni’s were searched. During the search of Giovanni’s, Kosta arrived and was allowed on the premises. After arriving, Kosta told Special Agent Pat Leahy that he would slap the smirk off of his face. Special Agent Josh Stasio (“Stasio”) then escorted Kosta to the back of the restaurant. While on the premises, Kosta asked Stasio if they were the same people that went after Nick’s Roast Beef. Kosta told Stasio that they were not as big as Nick’s Roast Beef and that the agents would find something but not a large amount. Kosta stated that his business sales are largely paid by

credit card, and that the credit card sales are reported. Kosta asked Stasio if the owners of Nick's Roast Beef were going to jail and asked Stasio what was going on with that case. Kosta stated that it was crazy that the owners of Nick's Roast Beef had that much money. Kosta stated that he did not have that much cash.¹

13. At about 8:30 a.m. on February 15, 2017, and prior to his arrival at Giovanni's, Kosta was served with a grand jury subpoena for documents in his capacity as a custodian of records of Konstantine Restaurant Group. The subpoena required this entity to produce, among other things, for the time period from 2010 through the present:

All records and tangible objects pertaining to the payment, receipt, transfer or storage of money or other things of value by the following business: K&P Food Service, Inc. (Giovanni's in Peabody), Konstantine Restaurant Group LLC (Giovanni's in Peabody).

Dora and Kosta Access Safe Deposit Box 53 at Santander Bank in Peabody

14. On February 15, 2017, after the search of 24 Bow Street concluded, I spoke with assistant branch manager Brenda Nichols ("Nichols") at the Peabody Place branch of Santander Bank ("Peabody Santander Bank"). Nichols stated that at approximately 11:30 a.m. that same day, Dora and Kosta arrived at the bank and Dora requested access to safe deposit box number 53, which was leased by Dora and Panousos. Bank access logs for box

¹ Nick's Famous Roast Beef ("Nick's") is a restaurant located in Beverly, Massachusetts. On December 14, 2015, the two owners and the wife of one of the owners were charged with conspiracy to defraud the United States by obstructing the IRS and aiding and assisting in the filing of false returns, while the son of one of the owners was charged with endeavoring to obstruct and impede the due administration of the Internal Revenue Laws. The two owners and the wife of one of the owners failed to report nearly \$6 million dollars in cash receipts from Nick's over a six-year period, and the son of one of the owners assisted in creating false receipts for an IRS audit. During a search executed on the residence of one of the owners of Nick's, the IRS discovered \$1.6 million in cash in a safe at the residence. The owners, wife and son pleaded guilty to the charges against them and await sentencing on those charges on April 26, 2017.

number 53 reflect that it was accessed seven times in 2015, eleven times in 2016, and one time in 2017, each time by Dora. The last access was on February 15, 2017 at 11:37 a.m., shortly after the searches of Giovanni's and the Panousos residence.

15. Nichols stated that the teller told her that the box was heavy and felt full when she placed it on the table for Dora to access, but that the box felt empty afterwards.

16. On February 22, 2017, Special Agents William Noonan ("Noonan") and Joshua Stasio ("Stasio") interviewed Lori Wauzinski ("Wauzinski"), the teller at Peabody Santander Bank who waited on Dora on February 15, 2017. Wauzinski stated that Dora was a regular customer of the bank and that Wauzinski had waited on Dora before. Wauzinski stated that the visit on February 15, 2017 was unusual for two reasons. First, Dora brought her son Kosta with her, which she had never done before. Second, Dora had two bags with her, a purse and a tote bag. Wauzinski said it was unusual for Dora to bring a second bag with her to the bank. Wauzinski accompanied Dora to the vault and removed her safe deposit box. Wauzinski noticed that the box had something in it based on the weight of the box. Wauzinski estimated that the box weighed a few pounds. After removing the box and giving it to Dora, Dora went to a privacy room with the box for a few minutes and then brought the box back to the vault. When Dora gave the box back to Wauzinski to return to the vault, the box felt much lighter than when she had taken it out of the vault.

17. On February 22, 2017, SAs Noonan and Stasio interviewed Peabody Santander Bank employee Brian Darcy ("Darcy"). Darcy had a conversation with Dora on February 15, 2017 after she accessed her safe deposit box. Darcy knows Dora as both a client of the bank and as the owner of Giovanni's in Peabody. Dora would usually sit down and talk

with Darcy at his desk for a few minutes every time she came into the bank. Darcy noticed Dora leaving the bank on February 15, 2017, and approached her to talk. Dora introduced Darcy to her son, Kosta, and told Darcy that she had too much going on that day and could not talk, and that they could speak at another time. Dora then hurried out of the bank with Kosta. Darcy found this encounter odd because in the two years that he has seen Dora at the bank she has always sat and talked with him when she was at the bank and she never brought her son with her to the bank.

18. On February 21, 2017, security footage was obtained from Santander Bank's Fraud Department. A review of the security footage reveals that at approximately 11:30 AM on February 15, 2017, Dora and Kosta entered the Peabody Santander Bank. Dora had two bags with her, a purse and a tote bag. The tote bag appeared to be empty when Dora entered the bank and approached the teller window. After a short conversation with the teller, at approximately 11:37 a.m., Dora went with the teller behind the counter of the bank to the vault where the safe deposit boxes are located. Kosta remained in the lobby of the bank while Dora accessed the safe deposit box. At approximately 11:42 AM, Dora exited from behind the counter at the bank. Dora had both her purse and the tote bag that no longer appeared to be empty. Dora met with Kosta and walked towards the exit of the bank. On her way out, Dora was stopped by a bank employee who had a quick conversation with Dora before she left the bank. Attached as Exhibit A is a copy of the security camera image of Dora and her bag as she entered and left the Peabody Santander Bank on February 15, 2017.

19. On February 18, 2017, a search warrant for box number 53 at Peabody Santander Bank was executed. The box contained only several pieces of assorted jewelry, an invoice for

payment of the safe deposit box and a slip of paper with the handwritten figure “270,000”. A photograph of that box as it appeared when opened at the time of the search is attached as Exhibit B.

Dora and Kosta Attempt to Access Safe Deposit Box 866 at Lynnfield Santander Bank

20. On February 15, 2017, I also spoke with Chantelle Mahlatini (“Mahlatini”), an employee at the Santander Bank branch located at 16 Centre Court in Lynnfield, Massachusetts (“Lynnfield Santander Bank”). Chantelle advised that at approximately 12:00 p.m. that same day, Dora and Kosta arrived at the bank and Dora stated that she had lost the key to her safe deposit box number 866, and needed to gain access to the box. Dora was told that in order for her to gain access to the box, it would have to be drilled. Dora requested that the box be drilled, but was told that the bank had to coordinate the drilling and would contact her when it was arranged. Dora and Kosta left the bank. Later that same day, Dora called the bank to find out if a drilling time had been set up.
21. Box number 866 at the Lynnfield Santander Bank has been leased by Dora and Panousos since October 20, 2007. Bank records reflect that it was accessed twice in 2007, once in 2009, five times in 2011 and three times in 2013, all by Dora. The last access was on October 20, 2013.
22. A review of the security footage for the Lynnfield Santander Bank reveals that Dora and Kosta entered it at approximately 12:55 PM on February 15, 2017. It further reflects that after waiting a few minutes, Dora had a short conversation with one of the tellers, then left the bank at approximately 1:01 PM with Kosta.
23. On February 17, 2017, a search warrant was executed on safe deposit box number 866 at the Lynnfield Santander Bank. In it, investigators found, among other things, \$415,000

in cash as well as a slip of paper with handwriting that said \$205,000. A photograph of the open box as it appeared at the time of the search is attached as Exhibit C.

Kosta Attempts to Access TD Bank Safe Deposit Boxes, Peabody

24. Among the warrants issued by this Court on February 14, 2017 were for two safe deposit boxes located at the TD Bank branch located at 635 Lowell Street in Peabody, Massachusetts (“Peabody TD Bank”). In the box leased by Dora and Panousos, investigators found, among other things, \$224,220 in cash. A photograph of that open box as it appeared at the time of the search is attached hereto as Exhibit D. In the box leased by Kosta, investigators found personal and personal financial documents.
25. After agents served the warrants on the Peabody TD Bank on February 15, 2017, Kosta called and spoke with the branch manager. Kosta asked the branch manager if anyone had been at the bank looking for him. The branch manager reported that, after the phone call, she noticed Kosta sitting in the parking lot in a car that he does not usually drive. She further reported that after Kosta had sat in the lot for approximately 30 minutes, he came into the bank and requested access to his safety deposit box. The branch manager denied Kosta access to the box.

Conclusion

26. Based on the information described above, I have probable cause to believe, and do believe, that on February 15, 2017 Theodora Panousos and Konstantinos Panousos concealed records, documents or other objects from safe deposit box number 53 located at Santander Bank at Peabody Place located at 300 Andover Street in Peabody, Massachusetts and attempted to conceal records, documents or other objects from safe deposit box number 866 at Santander Bank located at 16 Centre Court in Lynnfield,

Massachusetts. By removing the contents from box number 53 at Santander Bank in Peabody, and attempting to remove the contents from box 866 at Santander Bank in Lynnfield, Theodora Panousos and Konstantinos Panousos have violated Title 18 U.S.C. §1512(c), by corruptly concealing a record, document or other object, or attempting to do so, with the intent to impair the object's integrity or availability for use in an official proceeding.

Sworn to under the pains and penalties of perjury,



WILLIAM T. NOONAN, JR.
Special Agent; IRS

Subscribed and sworn to before me on March 21, 2017



DAVID H. HENNESSY
United States Magistrate Judge



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