

Q18639219
CRIMINAL COURT OF THE CITY OF NEW YORK
PART APAR, COUNTY OF QUEENS

THE PEOPLE OF THE STATE OF NEW YORK | STATE OF NEW YORK
| COUNTY OF QUEENS

V. |

|

LISA PENDA (33Y) |

14445289H |

DEFENDANT |

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INVESTIGATOR JOHN ROMERO OF THE NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, SHIELD #174, BEING DULY SWORN, DEPOSES AND SAYS THAT ON OR ABOUT SEPTEMBER 24, 2018, AT ABOUT 3:50PM AND AT OTHER TIMES AND DATES, INSIDE OF 248-05 CAMBRIA AVE, COUNTY OF QUEENS, AND OTHER LOCATIONS WITHIN THE LEGAL JURISDICTION OF QUEENS COUNTY, STATE OF NEW YORK, THE DEFENDANT COMMITTED THE OFFENSES OF:

PL 155.40-1 [CF] GRAND LARCENY IN THE SECOND DEGREE - (DNA SAMPLE REQUIRED UPON CONVICTION)

NYS TAX LAW 1814 (C) (2) [DF] CIGARETTE AND TOBACCO PRODUCTS TAX - (DNA SAMPLE REQUIRED UPON CONVICTION)

PL 170.25 [DF] CRIMINAL POSSESSION OF A FORGED INSTRUMENT SECOND DEGREE - (DNA SAMPLE REQUIRED UPON CONVICTION)

PL 105.10-1 [EF] CONSPIRACY IN THE FOURTH DEGREE - (DNA SAMPLE REQUIRED UPON CONVICTION)

PL 155.40-1 [CF] GRAND LARCENY IN THE SECOND DEGREE - (DNA SAMPLE REQUIRED UPON CONVICTION)

--- KNOWINGLY AND UNLAWFULLY STEAL PROPERTY WITH A VALUE EXCEEDING FIFTY THOUSAND DOLLARS;

NYS TAX LAW 1814 (C) (2) [DF] CIGARETTE AND TOBACCO PRODUCTS TAX - (DNA SAMPLE

NYS TAX LAW 1814 (C) (2) [DF] CIGARETTE AND TOBACCO PRODUCTS TAX - (DNA SAMPLE REQUIRED UPON CONVICTION)

--- NOT BEING AN AGENT LICENSED BY THE COMMISSIONER, WILLFULLY POSSESSED OR TRANSPORTED FOR THE PURPOSE OF SALE THIRTY THOUSAND OR MORE CIGARETTES SUBJECT TO THE TAX IMPOSED BY SECTION FOUR HUNDRED SEVENTY-ONE OF THIS CHAPTER IN ANY UNSTAMPED OR UNLAWFULLY STAMPED PACKAGES OR WHO WILLFULLY SOLD OR OFFERED FOR SALE THIRTY THOUSAND OR MORE CIGARETTES IN ANY UNSTAMPED OR UNLAWFULLY STAMPED PACKAGES IN VIOLATION OF ARTICLE TWENTY OF THIS CHAPTER;

PL 170.25 [DF] CRIMINAL POSSESSION OF A FORGED INSTRUMENT SECOND DEGREE - (DNA SAMPLE REQUIRED UPON CONVICTION)

--- WITH INTENT TO DEFRAUD, DECEIVE OR INJURE ANOTHER AND WITH KNOWLEDGE THAT THE INSTRUMENT WAS FORGED, UTTER OR POSSESS A FORGED INSTRUMENT OF A KIND SPECIFIED IN SECTION 170.10 OF THE PENAL LAW;

PL 105.10-1 [EF] CONSPIRACY IN THE FOURTH DEGREE - (DNA SAMPLE REQUIRED UPON CONVICTION)

--- WITH INTENT THAT CONDUCT CONSTITUTING A CLASS B OR C FELONY BE PERFORMED, AGREE WITH ONE OR MORE PERSONS TO ENGAGE IN OR CAUSE THE PERFORMANCE OF SUCH CONDUCT.

THE ABOVE OFFENSES WERE COMMITTED AS FOLLOWS:

I AM EMPLOYED BY THE NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE'S (NYSDTF) CRIMINAL INVESTIGATION DIVISION, CIGARETTE STRIKE FORCE CREATED IN 2014 TO CRACK DOWN ON ILLEGAL TOBACCO TRAFFICKING AND SALES. THE MULTI-AGENCY STRIKE FORCE IS COMPOSED OF STATE, LOCAL AND FEDERAL AGENCIES DEDICATED TO STOPPING THE INFLUX OF COUNTERFEIT AND UNTAXED TOBACCO PRODUCTS INTO NEW YORK STATE. THE STRIKE FORCE ALSO FOCUSES ON TRACING ANY ILLICIT FINANCIAL EARNINGS FROM THAT CRIMINAL ACTIVITY.

I HAVE BEEN A REVENUE CRIME SPECIALIST AT NYSDTF FOR MORE THAN 15 YEARS AND I HAVE BEEN WITH THE CIGARETTE STRIKE FORCE SINCE ITS CREATION. MY PRIMARY DUTIES FOCUS ON THE INVESTIGATION OF INDIVIDUALS INVOLVED IN THE UNLAWFUL POSSESSION AND SALE OF UNTAXED CIGARETTES AND COUNTERFEIT OR FORGED TAX STAMPS. CIGARETTES BEARING NO TAX STAMP, COUNTERFEIT TAX STAMPS OR OUT OF STATE TAX STAMPS ARE CONSIDERED TO BE UNTAXED, CONTRABAND CIGARETTES UNDER NEW YORK STATE LAW. AT NYSDTF, I ATTEND REGULAR IN-HOUSE TRAINING REGARDING THE TRAFFICKING OF CIGARETTES AND RELATED INVESTIGATIVE AND LEGAL ISSUES INVOLVED IN THE SAME.

BASED ON MY TRAINING AND EXPERIENCE, I AM AWARE THAT ALL PACKS OF CIGARETTES IN NEW YORK STATE MUST BEAR THE NEW YORK STATE TAX STAMP ISSUED BY THE NYSDTF AND ALL PACKS OF CIGARETTES IN NEW YORK CITY MUST BEAR THE JOINT NEW YORK CITY/NEW YORK STATE TAX STAMP, VALUED AT \$5.21 PER PACK (\$4.35 NYS EXCISE TAX AND \$0.86 PRE-PAID SALES TAX) AND \$6.71 PER PACK (\$4.35 NYS EXCISE TAX, \$1.50 NYC EXCISE TAX AND \$0.86 PRE-PAID SALES TAX) RESPECTIVELY. THIS TAX IS PRE-PAID TO THE STATE WHEN A SELLER TAKES POSSESSION OF THE CIGARETTES.

LEGITIMATE CIGARETTES SOLD IN THE UNITED STATES ARE MANUFACTURED BY A SELECT FEW COMPANIES AND ARE GENERALLY PACKAGED IN A PACK CONTAINING 20 CIGARETTES EACH. THOSE PACKS ARE PACKAGED INTO CARTONS OF 10 PACKS EACH. THOSE CARTONS ARE PACKAGED INTO "MASTER CASES" OF 60 CARTONS. THOSE MASTER CASES ARE THEN TRANSPORTED TO VARIOUS STATES FOR PROCESSING AND DISTRIBUTION TO WHOLESALERS AND RETAILERS FOR SALE TO CUSTOMERS.

THE TAXES IMPOSED ON THE SALE OF CIGARETTES TO CONSUMERS IN EACH STATE ARE DICTATED BY STATE LAW. NEW YORK STATE AND NEW YORK CITY HAVE SOME OF THE HIGHEST TAXES ON CIGARETTES IN THE COUNTRY. IN NYC THE TAX IS \$6.70/PER PACK AND IN THE REST OF NYS, THE TAX IS \$5.20. THOSE TAXES INCLUDE \$0.86 IN NEW YORK STATE PRE-PAID SALES TAX, \$4.35 IN NEW YORK STATE EXCISE TAX AND AN ADDITIONAL \$1.50 IN NYC EXCISE TAX IN THE FIVE BOROUGHES OF NEW YORK CITY. THE STAMPING AGENTS PAY THE STATE OF NEW YORK FOR EACH STAMP THEY PLACE ON A PACK OF CIGARETTES. THIS CHARGE IS THEN PASSED DOWN THROUGH WHOLESALE DISTRIBUTORS AND RETAILERS TO THE CUSTOMER. THUS, ANY PERSON BUYING A PACK OF CIGARETTES IN NEW YORK HAS PRE-PAID THE REQUIRED EXCISE AND SALES TAXES. SAID OTHERWISE, FOR EACH PACK OF UNTAXED CIGARETTES POSSESSED IN NEW YORK, WITH THE INTENT TO SELL, THE POSSESSOR HAS STOLEN \$4.35 IN NYS EXCISE TAX ALONE FROM THE NYSDTF. WITHIN NYC, THE POSSESSOR HAS STOLEN \$5.85 IN NYS AND NYC EXCISE TAX FROM THE NYSDTF.

BASED SOLELY ON THE PRE-PAID NYS EXCISE TAX DETAILED ABOVE (\$4.35 PER PACK/STAMP), DEFENDANTS STOLE \$953,433.00 FROM THE STATE OF NEW YORK, NYSDTF, ON THE UNTAXED CIGARETTES AND UNAFFIXED COUNTERFEIT STAMPS RECOVERED AS DETAILED BELOW.

FURTHERMORE, UNDER NYS TAX LAW 1814(D), POSSESSION AT ANY ONE TIME OF FIVE THOUSAND OR MORE CIGARETTES IN UNSTAMPED OR UNLAWFULLY STAMPED PACKAGES SHALL BE PRESUMPTIVE EVIDENCE THAT SUCH CIGARETTES ARE POSSESSED OR TRANSPORTED FOR THE PURPOSE OF SALE.

IN SUM, THIS INVESTIGATION HAS REVEALED THAT DEFENDANT NICHOLAS GALAFANO CONSPIRED WITH INDIVIDUALS INCLUDING BEATRIZ VILLAFANE, NASIR JAFRI, AHMED ABUALRUB AND HIS SON HASSAN ABUALROB, GALAFANO'S SONS MUSA GALAFANO AND [REDACTED] AND LISA PENA TO RUN AN UNTAXED CIGARETTE TRAFFICKING OPERATION OUT OF HIS LITTLE NECK, QUEENS COUNTY, HOME, THAT STRETCHED FROM HEMPSTEAD, LONG ISLAND, TO BROOKLYN TO CHANTILLY, VIRGINIA. DEFENDANTS CONSPIRED WITH EACH OTHER, AND OTHERS, TO POSSESS AND TRANSPORT, FOR THE PURPOSE OF SALE, PACKS OF CIGARETTES FOR WHICH THEY DID NOT PAY EXCISE TAX TO THE NYSDTF AND THAT DID NOT HAVE THE REQUIRED NEW YORK STATE OR JOINT NEW YORK CITY / NEW YORK STATE TAX STAMP ON THEM.

DEFENDANT GALAFANO, ALONG WITH HIS SONS DEFENDANTS MUSA GALAFANO AND [REDACTED] RAN THIS CIGARETTE TRAFFICKING BUSINESS OUT OF HIS LITTLE NECK HOME IN QUEENS COUNTY, MORE PARTICULARLY 248-05 CAMBRIA AVE (ALSO KNOWN AS 49-14 248TH STREET) [I HAVE OBSERVED THAT THIS LOCATION IS A CORNER LOT. I HAVE REVIEWED NYC DEPARTMENT OF FINANCE RECORDS THAT SHOW THAT THE MAILING ADDRESS FOR THE LOCATION IS 49-14 248TH STREET, ALTHOUGH THE ADDRESS OF 248-05 CAMBRIA AVE, LITTLE NECK, NY IS ALSO USED.], LITTLE NECK, NEW YORK.

BASED UPON THIS INVESTIGATION, I HAVE LEARNED THAT IN FURTHERANCE OF THIS CONSPIRACY, THE DEFENDANTS ENGAGED IN OVERT ACTS WHICH INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

I HAVE REVIEWED RECORDS FROM SAM'S CLUB FOR JAFRI (BY AND THROUGH HIS VARIOUS COMPANIES) WHICH REVEAL THAT IN 2018 ALONE, THESE COMPANIES PURCHASED MORE THAN 37,620 CARTONS OF CIGARETTES IN VIRGINIA AND MARYLAND. BASED UPON THIS INVESTIGATION, INCLUDING BUT NOT LIMITED TO A REVIEW OF NYPD PLATE READER DATABASES FOR JAFRI'S VEHICLE (SEE BELOW), DEFENDANT JAFRI PURCHASED THESE CIGARETTES FROM SAM'S CLUBS AND DROVE THEM TO NEW YORK TO SELL TO DEFENDANT GALAFANO.

BASED UPON THIS INVESTIGATION, INCLUDING BUT NOT LIMITED TO A REVIEW OF RECORDS FROM BRIDGEHAMPTON NATIONAL BANK, WESTERN UNION AND SWITCH COMMERCE,

FROM BRIDGEHAMPTON NATIONAL BANK, WESTERN UNION AND SWITCH COMMERCE, DEFENDANT VILLAFANE OPERATED MULTIPLE BUSINESSES WITH DEFENDANT GALAFANO WHICH THEY USED TO SELL CIGARETTES WITH COUNTERFEIT TAX STAMPS AND LAUNDER THE PROCEEDS FROM THEIR CIGARETTE TRAFFICKING OPERATION. IN ADDITION, BASED UPON A REVIEW OF RECORDS, INCLUDING BUT NOT LIMITED TO NY DMV RECORDS, DEFENDANT VILLAFANE LIVES AT THE MEADOWBROOK STASH HOUSE (DETAILED BELOW), WITH HER FAMILY.

BASED UPON THIS INVESTIGATION, DEFENDANTS ABUALROB (BOTH AHMAD AND HASSAN), PURCHASED CIGARETTES FROM GALAFANO'S CIGARETTE TRAFFICKING OPERATION AND DROVE THOSE CIGARETTES THROUGH QUEENS COUNTY IN ORDER TO BRING THEM FROM HEMPSTEAD (LONG ISLAND) TO BROOKLYN. DEFENDANTS ABUALROB (BOTH AHMAD AND HASSAN) THEN SOLD THOSE CIGARETTES TO THEIR CUSTOMERS IN NEW YORK.

BASED UPON THIS INVESTIGATION, INCLUDING BUT NOT LIMITED TO THE CIRCUMSTANCES OF THE ARREST OF DEFENDANT PENDA ON SEPTEMBER 24, 2018, AS DETAILED HEREIN, SHE REMOVED OUT-OF-STATE TAX STAMPS FROM DEFENDANT GALAFANO'S UNTAXED CIGARETTES AND AFFIXED COUNTERFEIT NYS TAX STAMPS ON THEM, IN PREPARATION FOR GALAFANO TO SELL SAID CIGARETTES.

PURSUANT TO THE INVESTIGATION OF THIS CIGARETTE TRAFFICKING ORGANIZATION, ON SEPTEMBER 24, 2018, SEARCH WARRANTS WERE EXECUTED AT THE LOCATIONS DETAILED BELOW AND THE BELOW DETAILED PROPERTY WAS RECOVERED:

1) GALAFANO'S QUEENS COUNTY HOME: 248-05 CAMBRIA AVE (49-14 248TH STREET), LITTLE NECK

RECOVERED PROPERTY: A CACHE OF DOCUMENTS, LEDGERS AND RECEIPTS REGARDING CIGARETTES ORDERS, PRICES, DELIVERIES AND PROCEEDS; MORE THAN 49 CARTONS OF CIGARETTES BEARING EITHER COUNTERFEIT NEW YORK OR VIRGINIA TAX STAMPS OR NO STAMP; AND A LARGE SUM OF CASH.

DEFENDANTS [REDACTED] AND MUSA GALAFANO WERE ARRESTED AT THE HOME DURING THE EXECUTION OF THE SEARCH WARRANT.

2) GALAFANO'S STASH HOUSE / VILLAFANE'S HOME: 100 MEADOWBROOK ROAD, HEMPSTEAD, NEW YORK

RECOVERED PROPERTY: 3589 CARTONS OF UNTAXED CIGARETTES (THESE CARTONS HAD NO TAX STAMPS, COUNTERFEIT NY TAX STAMPS AND/OR VIRGINIA TAX STAMPS); ALMOST 100,000 COUNTERFEIT NYS (EACH VALUED AT \$5.21) & NYS/NYC (EACH VALUED AT \$6.86) TAX STAMPS; MONEY COUNTERS; PARAPHERNALIA FOR THE REMOVAL AND AFFIXING OF STAMPS, INCLUDING BUT NOT LIMITED TO IRONS AND BRAKE CLEANER SPRAYS; AND A LARGE SUM OF CASH.

DEFENDANTS NICHOLAS GALAFANO AND BEATRIZ VILLAFANE WERE ARRESTED AT THIS LOCATION, ALONG WITH DEFENDANT JAFRI WHO HAD JUST ARRIVED IN HIS TOYOTA TUNDRA (DETAILED BELOW) DURING THE EXECUTION OF THE SEARCH WARRANT.

DEFENDANT PENDA WAS ARRESTED IN THE GARAGE OF THE HOME DURING THE EXECUTION OF THE SEARCH WARRANT WHILE IN THE PROCESS OF REMOVING OUT-OF-STATE TAX STAMPS AND AFFIXING THE COUNTERFEIT TAX STAMPS TO PACKS OF CIGARETTES; HER HANDS WERE COVERED IN ADHESIVE AT THE TIME OF ARREST.

3) JAFRI'S VEHICLE (PARKED AT 100 MEADOWBROOK ROAD, HEMPSTEAD) - A GRAY TOYOTA TUNDRA BEARING VIRGINIA LICENSE PLATE "5TWELVE." I HAVE REVIEWED VIRGINIA DMV RECORDS WHICH INDICATE THAT THIS VEHICLE IS REGISTERED TO NASIR JAFRI, C/O 5 TWELVE L.L.C., 42162 GISELLE COURT, CHANTILLY, VA.

RECOVERED PROPERTY: APPROXIMATELY 821 CARTONS OF VIRGINIA TAX CIGARETTES

4) ABUALROB'S APARTMENT - 3051 BRIGHTON 3RD STREET, APARTMENT 104, BROOKLYN

RECOVERED PROPERTY: APPROXIMATELY 1808 CARTONS OF CIGARETTES WITH COUNTERFEIT NYS, VIRGINIA AND CONNECTICUT TAX STAMPS; 56,620 COUNTERFEIT NJ, NYS, CT AND VA TAX STAMPS; ABOUT \$9K CASH

DEFENDANTS AHMAD ABUALRUB AND HASSAN ABUALRUB WERE ARRESTED AT THE HOME DURING THE EXECUTION OF THE SEARCH WARRANT.

5) GALAFANO AND VILLAFANE'S STORE - STOP N' SHOP: 618 FULTON AVENUE, HEMPSTEAD, NY 11550

RECOVERED PROPERTY: A SUM OF CASH AND A SMALL NUMBER OF CARTONS OF CIGARETTES BEARING COUNTERFEIT TAX STAMPS OR IN AN UNSTAMPED STATE.

THE CONCLUSIONS ABOUT THE ABOVE DETAILED TAX STAMPS ARE COUNTERFEIT ARE BASED UPON MY TRAINING AND EXPERIENCE, AS WELL AS THAT OF OTHER INVESTIGATIONS FROM THE NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE WHO WERE INVOLVED IN THE SEIZURE OF THE SAME.
