

Affidavit

Todd E. Tremaine, a Special Agent with the Bureau of Alcohol, Tobacco, Firearms & Explosives ("ATF"), United States Department of Justice, being duly sworn, depose and state as follows:

I. INTRODUCTION AND AGENT(S) BACKGROUND

1. I have been a Special Agent ("SA") with the Bureau of Alcohol, Tobacco, Firearms & Explosives ("ATF") since July 2001. I am a graduate of the University of Kentucky, with a Bachelors of Science Degree in Accounting. I have been assigned to the Lexington III Field Office, London Satellite Office, since June 2008. Prior to this, I was assigned to the ATF Louisville I Group from July 2001 until June 2008. In this capacity, I have investigated numerous cases involving firearms trafficking, explosives trafficking, contraband cigarette trafficking, armed drug trafficking, robbery, arson, and murder. I have participated in the execution of search warrants and arrests related to these crimes. From February 2004 until February 2008, I was assigned to the Drug Enforcement Administration ("DEA") Louisville District Office ("DO") Task Force. In this capacity I have investigated numerous complex narcotics cases and have participated in the execution of search warrants and arrests resulting from the distribution of controlled substances and the concealing of drug related assets.

2. I have conducted or assisted in numerous criminal investigations of alleged violations of the National Firearms Act, Gun Control Act, and Controlled Substances Act. Your Affiant has attended various training courses on firearms trafficking, drug trafficking, asset forfeiture, RICO and complex investigations, money laundering, and firearms offenses and the investigation thereof. I am familiar with and/or have participated in all the normal methods of

investigation, including but not limited to, visual surveillance, the questioning of witnesses, and the use of cooperating witnesses and/or confidential informants.

3. As a result of my training and experience, I am familiar with Federal criminal laws and know that it is a violation of:

- Title 18 U.S.C. § 1001(a)(2), for an individual to make a material false statement to a federal agent;
- Title 18 U.S.C. § 1956(a)(1)(A)(i) & (B)(i), for an individual, with the intent to promote the carrying on of a specified unlawful activity, or to conceal or disguise the nature, location, source, ownership, or controlled property believed to be the proceeds of a specified unlawful activity, to conduct or attempt to conduct a financial transaction involving property represented to be the proceeds of a specified unlawful activity, or use such property to facilitate a specified unlawful activity;
- Title 18 U.S.C. § 1956(h), for an individual to conspire to commit money laundering.

4. Based on my training and experience investigating firearms and drug dealers, your

Affiant knows that:

- That persons possess in their residences, other real property, including outbuildings, and vehicles over which they have dominion and control, documents which indicate their occupancy and/or ownership, such as personal mail, receipts, checkbooks, personal identification documents, notes and other correspondence, utility bills, financial documents, keys, photographs, leases, mortgage bills, vehicle registration information, ownership warranties, telephone answering machine introductions, photographs, and undeveloped photographic film containing photographs (when developed) of themselves occupying the property and vehicles;
- Individuals with knowledge of law enforcement operations will often conceal evidence of criminal activity outside the curtilage of their residence and/or business;
- That when determining whether a delay in obtaining a search warrant makes affidavit information fatally stale, courts look not only to the length of the delay, but also to such things as the nature of the criminal activity involved (whether continuous and ongoing or infrequent) and the kind of property that is to be searched for (whether perishable or enduring);

("TFIA") with the IRS, Criminal Investigation and was so employed since March 2002. SA Barto has conducted or participated in over 40 search warrants and 50 seizure warrants in multiple Judicial Districts relating to investigations of violations of tax and money laundering offenses. SA Barto has personally assisted in several investigations of alleged criminal violations of the Internal Revenue Laws (Title 26, United States Code, Section 7201, *et seq.*), the Foreign Bank Secrecy Act (Title 31, United States Code § 5324, *et seq.*), the Money Laundering Control Act (Title 18, United States Code §§ 1956 & 1957), and asset forfeiture provisions (Title 18, United States Code §§ 981, 982, & 984). These investigations have involved the use of electronic and physical surveillance; the use of informants and cooperating witnesses; undercover transactions; and, financial and telephone toll analysis. SA Barto has interviewed informants and witnesses, and consulted with senior investigators concerning methods and practices of individuals involved in the preparation of false income tax returns. SA Barto also has experience in debriefing defendants, cooperating witnesses, informants, and other persons who have had personal experience and knowledge of the amassing, spending, converting, transporting, distributing, and concealing the proceeds of illegal activities. SA Barto's formal education includes a Bachelor of Arts degree in Political Science from the University of Tennessee, Knoxville in 1994. SA Barto graduated from the Criminal Investigator Training Program at the Federal Law Enforcement Training Center in Glynco, Georgia in August 2008, and from the Special Agent Investigative Techniques program at the National Criminal Investigation Training Academy in December 2008. In those two programs, SA Barto studied a variety of law enforcement, criminal investigator, and tax crime issues, including the use of search and seizure warrants, violations of the Internal Revenue laws, violations of other Federal laws, and procedures and policies in criminal investigations.

6. This Affiant is also familiar with the crimes of extortion (Hobbs Act) and money

laundering, and has also consulted SA Barto concerning this matter, and knows that:

- Individuals involved in criminal activity such as drug trafficking, extortion, and/or other criminal acts commonly profit and amass proceeds from the illegal acts. In order to protect their illegal activity and be able to utilize their profits, they attempt to disguise and legitimize these profits through money laundering activities;
- Individuals involved in money laundering maintain records pertaining to their acquisition, conversion, movement, secreting, transfer, concealment and/or expenditure of proceeds, such as: currency; financial instruments and investments; real estate; automobiles; boats; other vehicles; home furnishings; stocks; bonds; precious metals and gemstones; jewelry; and electronic equipment. They also maintain other assets in the form of books, records, invoices, receipts, records of real estate transactions, purchase agreements, automobile titles, bank statements, financial statements, letters of credit, money orders, cashier's checks, safe deposit box agreements and keys, and money wrappers;
- Individuals involved in money laundering often obtain lines of credit, loans, or mortgages to purchase assets in which they have low equity interest to avoid seizure and forfeiture attempts by law enforcement authorities;
- Individuals involved in money laundering frequently utilize United States currency to purchase assets as well as household expenses and daily expenditures. They often maintain on hand and have quick access to large amounts of cash or other liquid assets;
- Individuals involved in money laundering frequently take or cause to be taken photographs or video movies of themselves, their associates, their property and assets;
- Individuals involved in money laundering are not unlike other individuals in that they maintain historical documents and records such as those documents, records and other items described above. These documents and records will normally be retained for long periods of time regardless of whether their value to the individual has diminished. These documents, records and other items described above are often maintained in their residences, garages, other outbuildings and appurtenances associated with such residences, and curtilage associated with such residences; automobiles, boats, trailers and other vehicles, safe-deposit boxes, storage facilities, businesses and other locations that are readily available;
- There are many reasons why criminal offenders maintain evidence for long periods of time. The evidence may be innocuous at first glance (e.g. financial credit card and banking documents, travel documents, receipts, documents reflecting

purchases of assets, personal calendars, telephone and address directories, check books, videotapes and photographs, utility records, ownership records, letters and notes, tax returns and financial records, escrow files, telephone/mobile phone and pager bills, keys to safe deposit boxes, packaging materials, computer hardware and software), but have significance and relevance when considered in light of other evidence. The criminal offender may no longer realize he/she still possesses the evidence or may believe law enforcement could not obtain a search warrant to seize the evidence. The criminal offender may also be under the mistaken belief that he/she has deleted, hidden or further destroyed any computer-related evidence, but which may be retrievable by a trained forensic computer specialist;

- Individuals who amass proceeds from illegal activities routinely attempt to further that conduct and/or conceal the existence and source of their funds by engaging in financial transactions with domestic and foreign institutions, and others, through all manner of financial instruments, including cash, cashier's checks, money drafts, traveler's checks, wire transfers, etc. Records of such instruments are routinely maintained at the individual's residence or place of business; and
- Your Affiant knows that individuals who are involved in ongoing criminal activities with other individuals and/or conspirators often communicate with each other by telephone, cell phone, two way pagers, blackberry communication devices, faxes, email, written correspondence, and voice messaging services. The contents of these communications often include dialogue regarding the illegal activities that participants are involved in. Many of these devices include communication history information, as well as a list of frequently contacted numbers or individuals. Records generated by these devices assist in documenting not only the subscriber information, but also the fact that communications between known parties did, in fact, occur.

7. I have personally participated in the investigation that is the subject of this

application, and I am familiar with the facts outlined below. The facts and information contained in this affidavit are based upon my personal knowledge and the investigations and observations of other law enforcement officers involved in this investigation, including agents/officers with the ATF, the IRS, and the Kentucky State Police ("KSP").

8. The following is a summary of some of the pertinent information I learned in the course of this investigation. This affidavit is offered only to establish probable cause and is not intended to be a complete presentation of all the facts of the investigation.

9. This Affiant and SA Barto participated in an investigation of former Whitley County Sheriff BASIL LAWRENCE HODGE. Your Affiant has learned from Kendra McKiddy and from investigators from the state auditor's office that the Whitley County Sheriff Department's (Whitley SO) has a bank account known as the Drug and Alcohol Fund. The legitimate purpose of this account was to pay informants and make drug buys. During the investigation, it was found that HODGE and others embezzled several thousand dollars from this account. The investigation revealed that HODGE took money out of the account under the guise that he was going to use the money to pay informants for drug purchases. From 2003 thru 2009, financial records showed that the department issued approximately 157 checks to Hodge in the amount of \$87,590, for the purpose of making a drug buy or for a purpose related to a drug investigation. This Affiant knows that on May 12, 2011, BASIL LAWRENCE HODGE pled guilty in U.S. District Court to several charges, including conspiring to launder money. This guilty plea was based in part on the aforementioned conduct concerning the Drug and Alcohol Fund.

10. This Affiant has also discussed the results of the audit of the Whitley County Sheriff's Department by the Kentucky Office of Public Accounts with auditors from the state auditor's office. This Affiant knows that the Whitley County Sheriff's Department has \$162,634 in unresolved tax deficits from 2005 - 2007. This Affiant spoke with auditor Danny Withers. Withers was asked, based on his participation in the audit of the Whitley County Sheriff's Department, where he saw the biggest opportunity for the embezzlement and/or theft of funds. Withers stated that it would be in the Tax Account. Pursuant to Kentucky law, the Sheriff and the SO are responsible for collecting all state, county, county school district, and other taxing district property taxes in Whitley County. In order to maintain an accounting of taxes collected on behalf

of Whitley County, the SO maintained a separate account known as the Tax Account. In reviewing records, Withers noticed several instances where taxpayers actually paid larger amounts than what was recorded on the books by the Whitley SO. Withers explained that, for example, the individuals might have paid the full property tax amount but the books reflected that the taxpayer paid a discounted amount for timely payment. Withers said this routine practice created a deficit in his audit and this practice created an opportunity for money to go missing. Withers also explained that there were also occasions where money from the SO's fee account and was placed into the tax account. Withers said he believed this was a technique used in an attempt to hide a deficit, or missing money, that should've been in the tax account.

11. This Affiant and SA Barto also spoke with former Whitley SO's bookkeeper VICKY PAUL. PAUL stated that HODGE directed her and [REDACTED] on how to discount tax bills after full payments were made by the taxpayer in order to generate excess funds. PAUL advised that the excess funds were split between HODGE, PAUL, [REDACTED]. PAUL further advised that HODGE took approximately 50% of the surplus for himself, while PAUL [REDACTED] each received approximately 25%, respectively. This Affiant further knows that PAUL has pled guilty and been sentenced in U.S. District Court for her role in the aforementioned criminal activity. Further, in her plea agreement, PAUL agreed that the total amount embezzled by she, HODGE, and [REDACTED] in calendar years 2005, 2006, and 2007, was approximately \$158,017.

12. This Affiant further knows from his investigation that HODGE and former attorney RON REYNOLDS extorted defendants in Whitley County, wherein the defendants paid unusually high legal fees to REYNOLDS and were promised that they would receive little or no jail time for cases that should have been felony drug convictions. The investigation showed that HODGE

ensured that a felony indictment was never brought against the defendants, and HODGE received a kickback from REYNOLDS. REYNOLDS stated that he paid HODGE a total of approximately \$57,500 in kickbacks stemming from three cases. Both HODGE and REYNOLDS have pled guilty in U.S. District Court to being involved in this criminal activity.

13. This Affiant also found in his investigation, and in conjunction with an investigation by the Federal Bureau of Investigation ("FBI"), that HODGE routinely extorted local drug dealers and engaged in a drug trafficking conspiracy to distribute prescription pills. For example, HODGE would receive payments, both in cash and in drugs, from drug dealers. The drug dealers have stated to both this Affiant and to agents with the FBI that they felt like they had to pay HODGE because if they didn't, he would utilize his office to "bust" them. Further, HODGE has pled guilty in U.S. District Court to charges related to this conduct. It should also be noted that HODGE has agreed to pay several thousand dollars in criminal forfeiture and in restitution to Whitley County, but to date, HODGE has not made any attempt to pay the forfeiture or restitution amounts.

14. On November 8, 2010, agents with the ATF, IRS, and FBI, executed search warrants at HODGE'S residence and at his department. No currency was found at either residence.

15. On September 14, 2011, this Affiant interviewed a cooperating witness, hereinafter referred to as the "CW." The CW is currently awaiting sentencing on federal drug charges. The CW first spoke about his involvement with DAN PEACE, a Corbin resident who is currently facing multiple federal charges, to include a conspiracy to manufacture and distribute methamphetamine. The CW stated that he has purchased methamphetamine from PEACE before. The CW stated that he had observed PEACE cook methamphetamine both at PEACE'S

residence on Leona Wyatt Road (in an outbuilding), and at his mother's residence located at 301 Beatty Avenue. The CW stated that PEACE used the red phosphorous method of manufacturing methamphetamine. The CW also mentioned names of people that cooked methamphetamine with DAN PEACE. This Affiant was able to corroborate the information relayed to this Affiant by the CW about DAN PEACE. To wit, this Affiant interviewed DAN PEACE on August 16, 2011, and PEACE admitted to cooking red phosphorous methamphetamine in the past, admitted to cooking it in an outbuilding on Leona Wyatt Road and in the residence at 301 Beatty Avenue, and further admitted to conspiring to manufacture methamphetamine with some of the same individuals listed by the CW.

16. 



17. The CW then spoke of his new "bunkmate" at the Grayson County Detention Center, BASIL LAWRENCE HODGE. The CW stated that he and HODGE had been cellmates for approximately one week. The CW stated that HODGE had been spending large amounts of money at the jail's commissary on items like food and cigarettes. The CW said HODGE was spending approximately \$300-\$400 per week at the commissary. The CW said HODGE told the

CW 1-2 days ago that he had money hidden in his mother's safe. The CW said he assumed the safe was in HODGE'S mother's residence. The CW said HODGE was trying to figure out if he had enough money in the safe to support him in jail (commissary expenses) at the same or similar rate of spending for the next 15.5 years. The CW said HODGE estimated that he had enough money in the safe to do so. The CW said he assumed that one of HODGE'S sons was sending the money to HODGE'S commissary account through money orders because the CW overheard HODGE ask his son on the phone once if he had sent the money order.

18. In December of 2009, a burglary was reported at the Whitley SO in which evidence - including narcotics and firearms - were alleged to have been stolen. HODGE later admitted to your Affiant that he helped arrange a staged burglary of the Whitley SO in an effort to cover-up his other criminal activities. The CW further advised that HODGE told him that PETE LAWSON was involved in the burglary at HODGE'S department in December of 2009. It should be noted that in August of 2011, during a proffer interview, HODGE informed this Affiant that he had asked DOYLE "STANBOY" FRITTS to do the burglary. HODGE advised this Affiant that FRITTS told him after the burglary occurred that he got PETE LAWSON and another individual to do the burglary for him. It is the opinion of this Affiant that the information provided by the CW regarding PETE LAWSON'S involvement in the burglary is corroborative of statements made by HODGE to this Affiant regarding the burglary.

19. Moreover, for purposes of collecting the forfeiture judgment and to determine the location of funds embezzled from the Whitley SO, your Affiant has asked HODGE whether or not he has \$10,000 or more in cash stored in any location. HODGE advised your Affiant that he does not.

20. Following the interview with the CW, this Affiant spoke with Drug Enforcement

Administration ("DEA") SA Vince Kersey. SA Kersey had previously interviewed this same CW about the involvement of the CW and others in a methamphetamine manufacturing conspiracy. SA Kersey advised that he had found the CW to be very credible with the information that he provided to law enforcement, and SA Kersey was able to corroborate the information provided by the CW. SA Kersey further advised that the information provided by the CW led to the guilty pleas of several other co-defendants involved in the conspiracy.

21. On September 15, 2011, SA Barto spoke with personnel from the Grayson County Detention Center concerning BASIL LAWRENCE HODGE. These individuals confirmed that HODGE was, in fact, spending approximately \$600 per month from his commissary account. Moreover, SA Barto learned that all of the cash in HODGE'S account is being deposited through money orders sent by HODGE'S mother, Ruth Hodge; his brother, James Hodge; his son, Basil R. Hodge; and/or Taylor Landscaping. Your Affiant knows that Taylor Landscaping is operated by HODGE'S known friend and associate, Larry Taylor.

22. HODGE has informed your Affiant that Taylor ultimately received the firearms that were allegedly stolen from the Whitley SO in December of 2009.

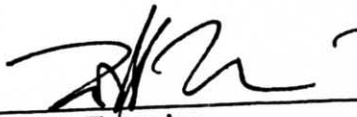
23. This Affiant knows from his experience in this investigation that BASIL LAWRENCE HODGE resided at 763 New Zion Church Road, Williamsburg, KY, prior to being incarcerated at the Grayson County Detention Center. Using the person-finding database "Accurint," this Affiant has identified Ruth Fern Hodge as residing at 723 New Zion Church Road, Williamsburg, KY. On a Kentucky Driver's License issued in May of 2011, Ruth Fern Hodge listed her address as being 723 New Zion Church Road, Williamsburg, KY. Further, this Affiant found the phone number associated with 723 New Zion Church Road to be listed to "Ruth Hodge" and "Basil Hodge." It should be noted that the father of BASIL LAWRENCE HODGE was also

named BASIL HODGE, and he died in June 2010 at the age of 76. On September 15, 2011, SA Barto identified the residence known to this Affiant as being BASIL LAWRENCE HODGE'S mother's residence to be 723 New Zion Church Road. Further, records with the Whitley County Property Valuation Administrator indicate that 723 New Zion Church Road is owned by RUTH HODGE, and that the description and photograph of the property on file with PVA are consistent with the residence and property identified by SA Barto as being 723 New Zion Church Road, Williamsburg, KY. SA Barto also identified two outbuildings being on the property, and in close proximity to, the residence identified as being 723 New Zion Church Road, Williamsburg, KY. SA Barto stated that one outbuilding is within a few feet of the residence, and the other outbuilding is within approximately 200 feet of the residence.

CONCLUSION

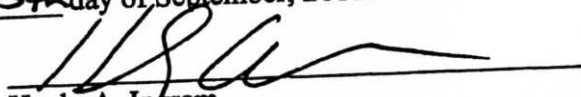
24. Based on the information set forth in this affidavit, combined with the joint training and experience of himself and SA Barto, your Affiant believes that there is probable cause to believe that evidence of the criminal offenses set forth in paragraph three of this affidavit, to include: providing false information to a federal agent, money laundering, and/or conspiracy to commit money laundering, as well as, proceeds and documentary evidence revealing the disposition of proceeds from prior and ongoing criminal activities is located at the residence of Ruth Fern Hodge located at 723 New Zion Church Road, Williamsburg, KY. For purposes of this

affidavit, the term "residence" is defined as all permanent and temporary structures located on the property at 723 New Zion Church Road, Williamsburg, KY, including any and all outbuildings and appurtenances thereto.



Todd E. Tremaine
Special Agent ATF

Subscribed and sworn to before me on this 15th day of September, 2011.



Hanly A. Ingram
UNITED STATES MAGISTRATE JUDGE