

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

v.

LUCIA ANDREA GATTA

Case Number: 21-80019-CR-
Cannon/Brannon

FILED BY KJZ D.C.

Apr 26, 2021

ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S. D. OF FLA. - West Palm Beach

AFFIDAVIT IN SUPPORT OF REQUEST FOR EXTRADITION

I, Sean Beaty, being duly sworn, depose and state:

1. I am a citizen of the United States of America, residing in Virginia.
2. From 2010 until the present, I have been employed as a Trial Attorney with the U.S. Department of Justice, Tax Division in Washington, D.C.
3. As a Trial Attorney, I am responsible for the preparation and prosecution of criminal cases. Based on my training and experience, I have become familiar with the criminal laws and procedures of the United States. I submit this sworn Affidavit pursuant to Article X of the Extradition Treaty between the United States of America and the Republic of Italy, which states that requests for extradition must be accompanied by, among other things, “the texts of the laws describing the essential elements and the designation of the offense for which extradition is being requested; [] the texts of the laws describing punishment for the offense; and [] the texts of the laws describing the time limit on the prosecution or the execution of the punishment for the offense.”

4. In the course of my duties I have become familiar with the charges and evidence in the case of United States of America v. Lucia Andrea Gatta, Case Number 21-80019-CR-Cannon/Brannon.

5. As more fully set forth in the attached Affidavit of Special Agent Louis Babino, Internal Revenue Service, Criminal Investigation (“IRS-CI”), an investigation revealed that the subject of this extradition request, Lucia Andrea Gatta (“Gatta”), violated U.S. criminal laws by evading federal income tax and failing to disclose her ownership of foreign bank accounts to the United States. Gatta failed to file individual tax returns declaring income she earned in foreign accounts and intentionally failed to disclose the existence of her foreign accounts. Gatta also lied to U.S. Citizenship and Immigration Services in conjunction with her application to become a naturalized U.S. citizen.

6. On 9 February 2021, a federal grand jury in the Southern District of Florida issued an Indictment against Gatta, charging her with the following offenses: **in Counts One through Three**, with failure to file reports of foreign bank and financial accounts, in violation of Title 31, United States Code, Sections 5314 and 5322(a), and Title 31, Code of Federal Regulations, Sections 1010.350, 1010.306(c)-(d), and 1010.840(b); **in Counts Four through Seven**, with tax evasion, in violation of Title 26, United States Code, Section 7201; **in Counts Eight through Eleven**, with failure to file tax returns, in violation of Title 26, United States Code, Section 7203; and, **in Count Twelve**, with procurement of citizenship or naturalization unlawfully, in violation of Title 18, United States Code, Section 1425(a). An indictment is a formal accusation or charging document issued by a grand jury, which is a part of the judicial branch of the U.S. government. A grand jury consists of 16 to 23 citizens impaneled to review evidence of crimes presented to it by

United States law enforcement authorities. Each member of the grand jury must review the evidence presented and determine whether there is probable cause to believe that a crime has been committed and that it is likely that the defendant committed the crime. The grand jury may “return,” or authorize, an indictment charging the defendant with a crime when at least 12 grand jurors determine that there is probable cause to believe that the defendant committed the crime. After the indictment is returned, the court will normally issue a warrant for the arrest of the defendant. I have obtained a certified copy of this Indictment from the Clerk of Court, and attached it to this Affidavit as **Exhibit A**.

7. On 9 February 2021, a United States Magistrate Judge issued a warrant for the arrest of Gatta for the offenses charged in the Indictment. I have obtained a certified copy of that arrest warrant from the Clerk of Court, and attached it to this Affidavit as **Exhibit B**. This arrest warrant remains valid and executable to apprehend Gatta to stand trial for the offenses with which she is charged in the Indictment.

8. The statutes and regulations cited in the Indictment and applicable to this case are Sections 5314 and 5322(a) of Title 31 of the United States Code; Sections 1010.350, 1010.306(c)-(d), and 1010.840(b) of Title 31 of the Code of Federal Regulations; Sections 7201 and 7203 of Title 26 of the United States Code; and Section 1425(a) of Title 18 of the United States Code. Violations of Sections 5314 and 5322(a) of Title 31 of the United States Code, Section 7201 of Title 26 of the United States Code, and Section 1425(a) of Title 18 of the United States Code each are punishable by a maximum sentence of more than one year in prison under United States law. Violation of Section 7203 of Title 26 of the United States Code is punishable by a maximum

sentence of one year in prison under United States law.¹ These statutes and regulations were the duly enacted law of the United States at the time that the offenses were committed, at the time the Indictment was filed, and are now in effect. A copy of these statutes and regulations is attached as **Exhibit C**.

**Counts One through Three:
Failure to File Reports of Foreign Bank and Financial Accounts**

9. Counts One through Three charge Gatta with failure to file reports of foreign bank and financial accounts for calendar years 2012 through 2014, in violation of Sections 5314 and 5322(a) of Title 31 of the United States Code, and the corresponding cited regulations.

10. To convict Gatta on Counts One through Three, the prosecution must establish beyond a reasonable doubt each of the following essential elements at trial:

- First: During each calendar year, 2012 through 2014, Gatta had a relationship or conducted transactions with a foreign financial agency;
- Second: Gatta failed to report this relationship or these transactions as required by law each calendar year;
- Third: Gatta willfully failed to file the report concerning the relationship or transactions each calendar year; and
- Fourth: Gatta willfully violated this law as part of a pattern of illegal activity involving more than \$100,000 in a 12-month period or while violating another law of the United States.

¹ Article II(3) of the Extradition Treaty provides that an offense is extraditable even if not punishable by more than one year in prison when extradition has been granted for another offense that is punishable by more than one year in prison or a more severe penalty, provided all the other requirements for extradition are met.

11. The maximum penalty for a violation of Sections 5314 and 5322(a) of Title 31 of the United States Code, as charged in Counts One through Three of the Indictment, is 5 years' imprisonment for each count of conviction.

Statute of Limitations

12. The statute of limitation on prosecuting the offenses charged in Counts One through Three is Section 3282 of Title 18 of the United States Code, which states:

Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within five years next after such offense shall have been committed.

Once an indictment has been filed in a federal district court, as with the other charges against Gatta, the statute of limitations is tolled and no longer runs. This prevents a criminal from escaping justice by simply hiding out and remaining a fugitive for an extended period of time.

13. In addition, the applicable statute of limitations may be tolled as provided by Section 3292(a)(1) of Title 18 of the United States Code, which states

Upon application of the United States, filed before return of an indictment, indicating that evidence of an offense is in a foreign country, the district court before which a grand jury is impaneled to investigate the offense shall suspend the running of the statute of limitations for the offense if the court finds by a preponderance of the evidence that an official request has been made for such evidence and that it reasonably appears, or reasonably appeared at the time the request was made, that such evidence is, or was, in such foreign country.

14. The United States applied for and obtained several Orders from the U.S. District Court tolling the statutes of limitations while the prosecution team obtained evidence from foreign countries. Various foreign evidence requests were outstanding from approximately 19 March

2018, through at least 9 February 2021, totaling 1,058 days. The original statute of limitations period for the earliest Title 31 offense (Count One) previously would have closed five years after the report due date of 30 June 2013, as listed for that Count in the Indictment, *i.e.*, on 30 June 2018. That period was extended to approximately 23 May 2021. Because the U.S. District Court tolled the statutes of limitations with respect to Gatta while the United States gathered evidence held in foreign countries, Counts One through Three of the 9 February 2021 Indictment were filed within the prescribed time period. The prosecution for the offenses for which extradition is requested is thus not barred by lapse of time under U.S. law.

**Counts Four through Seven:
Tax Evasion**

15. Counts Four through Seven charge Gatta with tax evasion for tax years 2011 through 2014, in violation of Section 7201 of Title 26 of the United States Code.

16. To convict Gatta on Counts Four through Seven, the prosecution must establish beyond a reasonable doubt each of the following essential elements at trial:

First: Gatta attempted to evade or defeat the assessment or payment of a tax for tax years 2011 through 2014;

Second: An additional tax due and owing for each tax year; and

Third: Gatta acted willfully.

17. The maximum penalty for a violation of Section 7201 of Title 26 of the United States Code, as charged in Counts Four through Seven of the Indictment, is five years' imprisonment on each count.

Statute of Limitations

18. The statute of limitations on prosecuting the offenses charged in Counts Four through Seven is Section 6531(2) of Title 26 of the United States Code, which states:

No person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws unless the indictment is found or the information instituted within 3 years next after the commission of the offense, except that the period of limitation shall be 6 years—

...

(2) for the offense of willfully attempting in any manner to evade or defeat any tax or the payment thereof; [...]

...

Once an indictment has been filed in a federal district court, as with the other charges against Gatta, the statute of limitations is tolled and no longer runs. In addition, Section 6531 of Title 26 of the United States Code provides that the statute of limitation for tax crimes tolls when the defendant is outside the United States:

The time during which the person committing any of the various offenses arising under the internal revenue laws is outside the United States or is a fugitive from justice within the meaning of section 3290 of Title 18 of the United States Code, shall not be taken as any part of the time limited by law for the commencement of such proceedings.

This prevents a criminal from escaping justice by simply hiding out and remaining a fugitive for an extended period of time.

19. In addition, the applicable statute of limitations may be tolled as provided by Section 3292(a)(1) of Title 18 of the United States Code, which states

Upon application of the United States, filed before return of an indictment, indicating that evidence of an offense is in a foreign country, the district court before which a grand jury is impaneled to investigate the offense shall suspend the running of the statute of

limitations for the offense if the court finds by a preponderance of the evidence that an official request has been made for such evidence and that it reasonably appears, or reasonably appeared at the time the request was made, that such evidence is, or was, in such foreign country.

20. The United States applied for and obtained several Orders from the U.S. District Court tolling the statutes of limitations while the prosecution team obtained evidence from foreign countries. Various foreign evidence requests were outstanding from approximately 19 March 2018, through at least 9 February 2021, totaling 1,058 days. The original statute of limitations period for the earliest tax evasion offense (Count Four) previously would have closed six years after the tax return due date of 17 April 2012, as listed in that Count of the Indictment, *i.e.*, on 17 April 2018. That period was extended to approximately 10 March 2021.² Because the U.S. District Court tolled the statutes of limitations with respect to Gatta while the United States gathered evidence held in foreign countries, Counts Four through Seven of the 9 February 2021 Indictment were filed within the prescribed time period. Therefore, the prosecution for the offenses for which extradition is requested is thus not barred by lapse of time under U.S. law.

**Counts Eight through Eleven:
Failure to File Tax Returns**

21. Counts Eight through Eleven charge Gatta with failure to file tax returns for tax years 2011 through 2014, in violation of Section 7203 of Title 26 of the United States Code.

22. To convict Gatta on Counts Eight through Eleven, the prosecution must establish beyond a reasonable doubt each of the following essential elements at trial:

² Additionally, the time would have been further extended beyond March 2021 under Section 6531 of Title 26 because Gatta was outside the United States for all the 2020 year.

First: Gatta was required by law or regulation to file an income tax return for tax years 2011 through 2014;

Second: Gatta failed to file tax returns for tax years 2011 through 2014; and

Third: Gatta acted willfully.

23. The maximum penalty for a violation of Section 7203 of Title 26 of the United States Code, as charged in Counts Eight through Eleven of the Indictment, is up to one-year imprisonment on each count.

Statute of Limitations

24. The statute of limitations on prosecuting the offenses charged in Counts Eight through Eleven is Section 6531(4) of Title 26 of the United States Code, which states:

No person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws unless the indictment is found or the information instituted within 3 years next after the commission of the offense, except that the period of limitation shall be 6 years—

...

(4) for the offense of willfully failing to pay any tax, or make any return ... at the time or times required by law or regulations; [...]

Once an indictment has been filed in a federal district court, as with the other charges against Gatta, the statute of limitations is tolled and no longer runs. In addition, Section 6531 of Title 26 of the United States Code provides that the statute of limitations for tax crimes tolls when the defendant is outside the United States:

The time during which the person committing any of the various offenses arising under the internal revenue laws is outside the United States or is a fugitive from justice within the meaning of section 3290 of Title 18 of the United States Code, shall not be taken as any part of the time limited by law for the commencement of such proceedings.

This prevents a criminal from escaping justice by simply hiding out and remaining a fugitive for an extended period of time.

25. In addition, the applicable statute of limitations may be tolled as provided by Section 3292(a)(1) of Title 18 of the United States Code, which states:

Upon application of the United States, filed before return of an indictment, indicating that evidence of an offense is in a foreign country, the district court before which a grand jury is impaneled to investigate the offense shall suspend the running of the statute of limitations for the offense if the court finds by a preponderance of the evidence that an official request has been made for such evidence and that it reasonably appears, or reasonably appeared at the time the request was made, that such evidence is, or was, in such foreign country.

26. The United States applied for and obtained several Orders from the U.S. District Court tolling the statutes of limitations while the prosecution team obtained evidence from foreign countries. Various foreign evidence requests were outstanding from approximately 19 March 2018, through at least 9 February 2021, totaling 1,058 days. Specifically, the original statute of limitations period for the earliest failure to file offense (Count Eight) previously would have closed six years after the tax return due date of 17 April 2012, as listed for that Count in the Indictment, *i.e.*, on 17 April 2018. That period was extended to approximately 10 March 2021.³ Because the U.S. District Court tolled the statutes of limitations with respect to Gatta while the United States gathered evidence held in foreign countries, Counts Eight through Eleven of the 9 February 2021 Indictment were filed within the prescribed time period. Therefore, the prosecution for the offenses for which extradition is requested is thus not barred by lapse of time under U.S. law.

³ Additionally, the time would have been further extended beyond March 2021 under Section 6531 of Title 26 because Gatta was outside the United States for all the 2020 year.

**Count Twelve:
Procuring Citizenship or Naturalization Unlawfully**

27. Count Twelve charges Gatta with procurement of citizenship or naturalization unlawfully, in violation of Section 1425(a) of Title 18 of the United States Code.

28. To convict Gatta on Count Twelve, the prosecution must establish beyond a reasonable doubt each of the following essential elements at trial:

First: Gatta knowingly procured or attempted to procure;

Second: Contrary to law;

Third: The naturalization of any person, or documentary or other evidence of naturalization or citizenship.

29. The maximum penalty for a violation of Section 1425(a) of Title 18 of the United States Code, as charged in Count Twelve of the Indictment, is 10 years' imprisonment.

Statute of Limitations

30. The statute of limitations on prosecuting the offense charged in Count Twelve is Section 3291 of Title 18 of the United States Code, which states:

No person shall be prosecuted, tried, or punished for violation of any provision of sections 1423 to 1428 . . . unless the indictment is found or the information is instituted within ten years after the commission of the offense.

Once an indictment has been filed in a federal district court, as with the other charges against Gatta, the statute of limitations is tolled and no longer runs. This prevents a criminal from escaping justice by simply hiding out and remaining a fugitive for an extended period of time. Because Count Twelve charges an offense that was complete upon her naturalization on 13 February 2012, the Indictment in this matter, filed on 9 February 2021, was filed within the prescribed ten year time

period. The prosecution for this offense for which extradition is requested is thus not barred by lapse of time under U.S. law.

31. Gatta is a citizen of Chile, the United States, and Italy, born on 8 April 1967, in Chile. Attached as **Exhibit D** is the Affidavit of Special Agent Louis Babino of IRS-CI, which further details the evidence against Gatta and provides additional information on her identification. Gatta is currently believed to be residing in Cento, Province of Ferrara, Italy.

32. This Affidavit and the Affidavit of Special Agent Louis Babino were each sworn to before a United States Magistrate Judge legally authorized to administer an oath for this purpose. I have thoroughly reviewed these Affidavits and the attachments to them, and attest that based on the evidence and information known to date, Gatta is guilty of the offenses charged in the Indictment.



Sean Beaty
Trial Attorney
Tax Division
U.S. Department of Justice

Signed and sworn to before me via video conference (Zoom), pursuant to Fed. R. Crim.

P. 4.1 and 4(d) on this 26th day of April, 2021, at West Palm Beach, Florida.



William Matthewman
United States Magistrate Judge
Southern District of Florida

List of Exhibits

- A. Indictment, dated 9 February 2021
- B. Arrest Warrant, dated 9 February 2021
- C. Relevant legal provisions
- D. Affidavit of Special Agent Louis Babino
Attachment 1: Photograph of Lucia Andrea Gatta

Exhibit A

Exhibit B

Exhibit C

Section 7201 of Title 26 of the United States Code Attempt to evade or defeat tax

Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$100,000 (\$500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, together with the costs of prosecution.

Section 7203 of Title 26 of the United States Code Willful failure to file return, supply information, or pay tax

Any person required under this title to pay any estimated tax or tax, or required by this title or by regulations made under authority thereof to make a return, keep any records, or supply any information, who willfully fails to pay such estimated tax or tax, make such return, keep such records, or supply such information, at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$25,000 (\$100,000 in the case of a corporation), or imprisoned not more than 1 year, or both, together with the costs of prosecution.

Section 5314 of Title 31 of the United States Code Records and reports on foreign financial agency transactions

(a) Considering the need to avoid impeding or controlling the export or import of monetary instruments and the need to avoid burdening unreasonably a person making a transaction with a foreign financial agency, the Secretary of the Treasury shall require a resident or citizen of the United States or a person in, and doing business in, the United States, to keep records, file reports, or keep records and file reports, when the resident, citizen, or person makes a transaction or maintains a relation for any person with a foreign financial agency. The records and reports shall contain the following information in the way and to the extent the Secretary prescribes:

- (1) the identity and address of participants in a transaction or relationship.
- (2) the legal capacity in which a participant is acting.
- (3) the identity of real parties in interest.
- (4) a description of the transaction.

[...]

(c) A person shall be required to disclose a record required to be kept under this section or under a regulation under this section only as required by law.

**Section 5322 of Title 31 of the United States Code
Criminal Penalties**

(a) A person willfully violating this subchapter or a regulation prescribed or order issued under this subchapter . . . shall be fined not more than \$250,000, or imprisoned for not more than five years, or both.

(b) A person willfully violating this subchapter or a regulation prescribed or order issued under this subchapter . . . while violating another law of the United States or as part of a pattern of any illegal activity involving more than \$100,000 in a 12-month period, shall be fined not more than \$500,000, imprisoned for not more than 10 years, or both.

**Section 1425 of Title 18 of the United States Code
Procurement of citizenship of naturalization unlawfully**

(a) Whoever knowingly procures or attempts to procure, contrary to law, the naturalization of any person, or documentary or other evidence of naturalization or of citizenship; or

(b) Whoever, whether for himself or another person not entitled thereto, knowingly issues, procures or obtains or applies for or otherwise attempts to procure or obtain naturalization, or citizenship, or a declaration of intention to become a citizen, or a certificate of arrival or any certificate or evidence of naturalization or citizenship, documentary or otherwise, or duplicates or copies of any of the foregoing –

Shall be fined under this title or imprisoned not more than . . . 10 years (. . . if the offense was not committed to facilitate such an act of international terrorism or a drug trafficking crime)....

Section 1010.350 of Title 31 of the Code of Federal Regulations

(a) In general. Each United States person having a financial interest in, or signature or other authority over, a bank, securities, or other financial account in a foreign country shall report such relationship to the Commissioner of Internal Revenue for each year in which such relationship exists and shall provide such information as shall be specified in a reporting form prescribed under 31 U.S.C. 5314 to be filed by such persons. The form prescribed under section 5314 is the Report of Foreign Bank and Financial Accounts (TD-F 90-22.1), or any successor form. ...

...

(c) Types of reportable accounts. For purposes of this section—

(1) Bank account. The term “bank account” means a savings deposit, demand deposit, checking, or any other account maintained with a person engaged in the business of banking.

(2) Securities account. The term “securities account” means an account with a person engaged in the business of buying, selling, holding or trading stock or other securities.

(3) Other financial account. The term “other financial account” means—

(i) An account with a person that is in the business of accepting deposits as a financial agency;

(ii) An account that is an insurance or annuity policy with a cash value;

(iii) An account with a person that acts as a broker or dealer for futures or options transactions in any commodity on or subject to the rules of a commodity exchange or association; or

(iv) An account with—

(A) Mutual fund or similar pooled fund. A mutual fund or similar pooled fund which issues shares available to the general public that have a regular net asset value determination and regular redemptions; or

(B) Other investment fund. [Reserved]

...

(d) Foreign country. A foreign country includes all geographical areas located outside of the United States as defined in 31 CFR 1010.100(hhh).

(e) Financial interest. A financial interest in a bank, securities or other financial account in a foreign country means an interest described in this paragraph (e):

(1) Owner of record or holder of legal title. A United States person has a financial interest in each bank, securities or other financial account in a foreign country for which he is the owner of record or has legal title whether the account is maintained for his own benefit or for the benefit of others. If an account is maintained in the name of more than one person, each United States person in whose name the account is maintained has a financial interest in that account.

(2) Other financial interest. A United States person has a financial interest in each bank, securities or other financial account in a foreign country for which the owner of record or holder of legal title is—

(i) A person acting as an agent, nominee, attorney or in some other capacity on behalf of the United States person with respect to the account;

(ii) A corporation in which the United States person owns directly or indirectly more than 50 percent of the voting power or the total value of the shares, a partnership in which the United States person owns directly or indirectly more than 50 percent of the interest in profits or capital, or any other entity (other than an entity in paragraphs (e)(2)(iii) through (iv) of this section) in which the United States person owns directly or indirectly more than 50 percent of the voting power, total value of the equity interest or assets, or interest in profits;

(iii) A trust, if the United States person is the trust grantor and has an ownership interest in the trust for United States Federal tax purposes. *See* 26 U.S.C. 671-679 and the regulations thereunder to determine if a grantor has an ownership interest in the trust for the year; or

(iv) A trust in which the United States person either has a present beneficial interest in more than 50 percent of the assets or from which such person receives more than 50 percent of the current income.

(3) Anti-avoidance rule. A United States person that causes an entity, including but not limited to a corporation, partnership, or trust, to be created for a purpose of evading this section shall have a financial interest in any bank, securities, or other financial account in a foreign country for which the entity is the owner of record or holder of legal title.

(f) Signature or other authority —

(1) In general. Signature or other authority means the authority of an individual (alone or in conjunction with another) to control the disposition of money, funds or other assets held in a financial account by direct communication (whether in writing or otherwise) to the person with whom the financial account is maintained.

...

**Section 1010.306 of Title 31 of the Code of Federal Regulations
Filing of Reports.**

...

(c) Reports required to be filed by [Section] 1010.350 shall be filed with FinCEN on or before June 30 of each calendar year with respect to foreign financial accounts exceeding \$ 10,000 maintained during the previous calendar year.

(d) Reports required by ... [Section] 1010.350... of this chapter shall be filed on forms prescribed by the Secretary. All information called for in such forms shall be furnished.

...

**Section 1010.840 of Title 31 of the Code of Federal Regulations
Criminal Penalty.**

...

(b) Any person who willfully violates any provision of Title II of Public Law 91-508, or of this chapter authorized thereby, may, upon conviction thereof, be fined not more than \$ 250,000 or be imprisoned not more than 5 years, or both.

...

Exhibit D

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

v.

LUCIA ANDREA GATTA

Case Number: 21-80019-CR-
Cannon/Brannon

AFFIDAVIT IN SUPPORT OF REQUEST FOR EXTRADITION

I, Louis Babino, being duly sworn, depose, and state:

1. I am a citizen of the United States residing in the State of Florida.
2. I am a Special Agent employed by the Internal Revenue Service, Criminal Investigation (“IRS-CI”) and, as such, I have become knowledgeable about criminal activity, particularly violations of the federal criminal statutes.
3. My duties as an IRS-CI Special Agent include the investigation of Lucia Andrea Gatta (“Gatta”) in the case of United States of America v. Lucia Andrea Gatta. As the case agent in the investigation, I am familiar with the facts of the investigation involving the criminal activities of Gatta. I submit this sworn Affidavit pursuant to Article X of the Extradition Treaty between the United States of America and the Republic of Italy, which states that requests for extradition must be accompanied by, among other things, “documents, statements or other information which set forth the identity and probable location of the person sought, with, if available, physical description, photographs and fingerprints; [and] a brief statement of the facts of the case, including the time and location of the offense.”
4. Gatta is charged in an Indictment, issued on February 9, 2021, with the offenses of failure to file reports of foreign bank and financial accounts (Counts One through Three,

corresponding the calendar years 2012 to 2014); tax evasion (Counts Four through Seven, corresponding to tax years 2011 through 2014); failure to file tax returns (Counts Eight through Eleven, corresponding to tax years 2011 through 2014); and, procurement of citizenship or naturalization unlawfully.

5. During the course of my investigation, I have, among other things, reviewed law enforcement reports; immigration records; and computer, internet, telephone, business, and bank records, which provided information concerning Gatta's criminal conduct. I have also interviewed Gatta in October 2017 in the United States, and I have attended meetings between the United States prosecutor and Gatta and her attorney. The following is a summary of the evidence obtained during this investigation and does not reflect my entire knowledge of the investigation. In addition, the evidence discussed in this affidavit does not represent all the evidence collected during the investigation.

Relevant U.S. Legal Requirements

6. A United States person, including both U.S. citizens and U.S. legal permanent residents ("United States Person"), has an obligation to report to the IRS on the Schedule B of the U.S. Individual Income Tax Return, IRS Form 1040, whether that individual had an interest in, or signature authority over, a financial account in a foreign country in a particular year by checking "Yes" or "No" in the appropriate box and identifying the country where the account is maintained. United States citizens also have an obligation to report all income earned from foreign financial accounts on the tax return and to pay the taxes due on that income.

7. United States Persons who have an interest in, or signature authority over, one or more financial accounts in a foreign country with an aggregate value of more than \$10,000 at any time during a particular year are required to file with the Department of the Treasury a Report of

Foreign Bank and Financial Accounts, FinCEN Report 114, formerly Form TD F 90-22.1 (“FBAR”). An FBAR identifies, among other things, the name of the financial institution at which the account was held, the account number, and the maximum value of the account during the calendar year. The FBAR for the applicable year is due by June 30 of the following year.

8. United States Persons are required to report and pay annually income taxes on income earned in both the United States and foreign countries.

Introduction to the Investigation

9. Gatta was born in Chile on April 8, 1967. She became a lawful permanent resident of the United States on or about December 8, 2003, and a United States citizen on or about February 13, 2012. Gatta resided in Jupiter, Florida from approximately 2010 through 2019. Since December 2019, Gatta has resided in Italy.

10. In 2015, the IRS received information that Gatta held foreign bank accounts in Switzerland and other countries that she had not disclosed to the United States. Gatta had an obligation to report these foreign accounts beginning in at least 2003, when she became a lawful permanent resident. The IRS also learned that Gatta failed to report and pay taxes on significant amounts of annual income earned from money held in these undisclosed foreign financial accounts. Gatta has an obligation to report and pay annual income taxes on all income earned, including worldwide income, beginning in at least 2003, when she became a lawful permanent resident.

11. In or around 2004, Gatta’s grandfather, an Italian citizen named Giovanni Canelotto (“Canelotto”), was a director with a multi-billion dollar global company called Techint. When Canelotto died, he left Gatta: an inheritance of approximately \$4,000,000; two homes in Chile

worth a combined value of approximately \$2,000,000; shares of Techint stock; and other valuable personal effects.

12. Most of Gatta's inheritance was held in two accounts at *Banca Svizzera Italiana* ("BSI"), a Swiss cantonal bank located in Lugano, Switzerland: one account held in Gatta's name and one account held in the name of a trust, of which Gatta is a beneficiary.

13. Gatta met with a U.S. tax advisor and return preparer in December 2011 to discuss her foreign financial accounts. Gatta told the tax advisor/return preparer that she had a foreign trust held at BSI that earned interest income. She told the tax advisor/return preparer that her BSI account earned eight percent interest per year, and that the Techint stock paid an annual dividend. Gatta further admitted to the tax advisor/return preparer during the December 2011 meeting that she was transferring money to the United States through her father's accounts to disguise the source of the funds she was receiving. Gatta's tax advisor/return preparer informed her that she had an obligation to report her foreign financial accounts.

14. IRS records show that there was no income reported for Gatta as an employee, self-employed individual, or independent contractor since 2006. Gatta did not file any federal income tax returns for the years 2004 through 2017. For tax year 2018, Gatta only reported minimal rental income.

Facts Developed from the Investigation

15. Even though Gatta has not worked since 2006, Gatta maintained a comfortable – even lavish – lifestyle during the past decade. In 2010, Gatta purchased her residence – paid in full – in Jupiter, Florida, for \$1,150,000.

16. Records lawfully obtained from two domestic car dealerships reveal that Gatta also paid, in full, \$41,323 for a Lexus SUV in 2012 and \$77,144 for a Cadillac Escalade in 2013.

17. Gatta told witnesses that she lived off the interest accruing on her foreign financial accounts and the annual dividend payments from Techint.

18. The IRS investigation revealed that Gatta owned, controlled, or had various interests in BSI accounts held or serviced in Switzerland and elsewhere. Specifically:

- a. Canelotto, Gatta's grandfather, opened a BSI account in April 2002 ("BSI Account 1") that was held under a code name. Gatta was a "proxy holder" for BSI Account 1. On February 17, 2004, Gatta received an inheritance from Canelotto in the form of approximately \$3.7 million in securities, which was transferred from BSI Account 1 to one of Gatta's BSI accounts. These securities had previously been transferred through two other BSI accounts: BSI Account 2 and BSI Account 3. BSI Account 1 was closed in March 2004.
- b. BSI Account 2 opened in June 2000 and closed in September 2001. The account was held in the name of an Italian national, who the United States believes to be Canelotto, but it was beneficially owned by another Italian national. Gatta was listed as a proxy holder on BSI Account 2. This account transferred money to accounts at banks in the United States, including those held in Gatta's name.
- c. BSI Account 3 opened in August 2001 and closed in July 2002. This account was also held in the name of one Italian national who the United States believes to be Canelotto, and it was beneficially owned by another Italian national. All assets from BSI Account 3 were transferred to BSI Account 1 on May 28, 2002. Gatta was listed as either a proxy holder or authorized signatory on BSI Account 3 as well.
- d. BSI Account 82962 opened in February 2004 and closed in October 2014. Gatta opened this account under the code name, "Intensidad." BSI Account 82962 had no

other beneficial owners, authorized signatories or legal representatives (e.g., power of attorney). And as listed in paragraph 14 of the Indictment, the high balances for this account alone for the calendar years 2012, 2013, and 2014 were \$859,898, \$534,744, and \$1,004,717, respectively.

- i. Account 82962 included a Form A, dated January 29, 2004, which listed Gatta as the sole beneficial owner and included a Chilean address. The BSI Account 82962 dossier lists Gatta's nationality as Chilean, and the records included a copy of Gatta's Chilean passport. BSI records also note that Gatta was an Italian national, but did not include a copy of her Italian passport.
- ii. On January 29, 2004, Gatta signed a "Declaration of Non-U.S. Tax Status for Natural Persons" form ("DNUSP"), falsely declaring that the account was not held by a U.S. person. At the time Gatta executed the DNUSP, she was a lawful permanent resident of the United States.
- iii. Account-opening documents indicate that BSI Account 82962 was established to receive the inflow of securities from BSI Account 1.
- iv. BSI records also reveal that BSI Account 82962 had a standing order to make payments to an account at another Swiss bank in connection with a *Viseca* credit card, of which Gatta was the named beneficiary.
- v. According to BSI portfolio statements, Gatta invested in "BSI MultiAmerica," a mutual fund that invested in U.S. public equity markets. These statements reveal that the fund generated approximately \$2,000 in dividends on a quarterly basis.

- vi. A review of Swiss bank account records reveals the flow of money from Gatta's BSI account through her father's BSI account ("BSI Account 4") and ultimately into Gatta's domestic bank accounts. Using this pattern, Gatta transferred more than \$3.1 million to her U.S. bank accounts between March 2004 and June 2012.
- vii. On or about July 18, 2014, Gatta transferred a final payment of \$97,000 to an entity account held at BSI Panama, "BSI Account 5."
- viii. Gatta provided to U.S. authorities, in response to a subpoena, account statements for BSI Account 82962, as well as two additional BSI accounts over which she had control: (1) BSI Account 010469, held in the name of "Incantatrice Settlement," opened in or around July 11, 2007, and (2) BSI Account 31111534, held in the name "Seastrand Limited," opened on an unknown date.

19. Through a domestic U.S. search warrant lawfully executed on Gatta's email address, the IRS investigation also determined that Gatta owned, controlled, or had various interests in BSI accounts held or serviced in Argentina. Specifically:

- a. Gatta held a beneficial interest in or signatory authority over her father's (Alfredo Gatta de Palma ("de Palma")) BSI accounts, including BSI Account 4, which opened in July 2003 and closed in November 2016.
- b. In September and October 2011, Gatta corresponded via email with Julieta Galli ("Galli"), an employee of BSI Buenos Aires, directing transfers between various BSI accounts.

- c. For example, on September 30, 2011, Gatta asked Galli to transfer “sixty thousand” (currency unknown) for the benefit of de Palma, which confirms that Gatta exerted control over funds held with BSI, even though it is unclear whether Gatta and Galli are discussing Gatta’s own BSI Accounts held in Switzerland, or additional foreign financial accounts held in Argentina with BSI Buenos Aires.
 - d. According to a whistleblower, Gatta contacted Galli with instructions to transfer funds from Gatta’s BSI accounts to de Palma’s BSI account.
 - e. A review of Gatta’s domestic HSBC bank account shows that between approximately August 2010 and November 2011, Gatta received seven wires from de Palma’s BSI account totaling \$1,800,000.
 - f. Additionally, travel records show Gatta traveled to Argentina on several occasions, and the whistleblower confirms that Gatta met with Galli during these trips and received U.S. currency.
20. The IRS investigation also determined that Gatta owned, controlled, or had an interest in a bank account with *Patagonia Valores Sociedad de Bolsa* (“Banco Patagonia”) serviced or held in Argentina. Specifically:
- a. In July 2013, Gatta corresponded with Hector Osvaldo Garay (“Garay”), an employee of Banco Patagonia’s Management Business Operations Support, regarding bonds and other financial assets held in Argentina.
 - b. On July 16, 2013, Gatta emailed Francisco Iranzo, a banker at BSI Switzerland, about transferring Argentine assets through Banco Patagonia to her BSI accounts.
 - c. The same day, Gatta provided Garay with instructions for transferring assets from Banco Patagonia to her BSI Switzerland account in her name.

21. Gatta voluntarily provided additional documentation to U.S. authorities concerning the structure of the Incantatrice Settlement as well as bank account records. The provided materials showed that the Incantatrice Settlement was a Guernsey-based entity. Additionally, the Incantatrice Settlement was held by an overlying trust which was managed by various branch BSI locations, including the Channel Islands, Malta, and Singapore, from approximately 2007 through 2013.

22. Finally, when Gatta applied for U.S. citizenship, she falsely claimed that she had never committed any crime for which she was not arrested (despite her many years of tax evasion and failing to file tax returns). Gatta omitted any information about the extent of her foreign accounts or her failure to pay taxes on the interest and dividends she earned outside the United States, or her failure to file FBARs and tax returns that would have disclosed her accounts. More importantly, not only did Gatta omit information about her prior tax evasion, but Gatta also affirmatively misrepresented to U.S. Citizenship and Immigration Services (“USCIS”) that she was living off money that her father gave her, when she knew the truth to be the categorical opposite: she was supporting her father with the money that she inherited from her grandfather. Gatta compounded her lies when the USCIS Officer reviewing her application for citizenship asked her to provide evidence that she did not have an obligation to file tax returns. After a lengthy discussion with her tax advisor, Gatta obtained wage and income transcripts which plainly did not report the interest and dividends that she knew she was earning in her BSI account.

Identification

23. Gatta is a citizen of the United States, Chile, and Italy. She was born on April 8, 1967 in Chile. She is described as a white female, standing approximately 160 centimeters tall, with red hair and brown eyes. She is the holder of a United States passport with passport number 488752453. A photograph of Gatta is attached to this Affidavit as **Attachment 1**, and it depicts the individual whom I interviewed in the United States on or about October 5, 2017 as part of this investigation, and who committed the criminal activities described above. Gatta is currently believed to be residing in Cento, Province of Ferrara, Italy.

24. This Affidavit is sworn to before a Magistrate Judge of the United States District Court for the Southern District of Florida, who is a person duly empowered to administer an oath for this purpose.



Louis Babino
Special Agent
Internal Revenue Service, Criminal Investigation

Sworn and subscribed to before me via video conference (Zoom), pursuant to Fed. R. Crim. P. 4.1 and 4(d) on this this 26th day of April 2021.



William Matthewman
United States Magistrate Judge
Southern District of Florida

Attachment 1: Photograph of Lucia Andrea Gatta

