

A F F I D A V I T

I, Dean Lake, being duly sworn, depose and say:

1. I am a Special Agent ("SA") assigned to the Los Angeles Field Division of the Social Security Administration, Office of the Inspector General, Office of Investigations ("SSA/OIG/OI"). I have been a SA with the SSA/OIG/OI since December 2002. I am a graduate of the Criminal Investigator Training Program and the Inspector General Criminal Investigator Training Academy at the Federal Law Enforcement Training Center. Prior to working for SSA/OIG/OI, I was a U.S. Border Patrol Agent for approximately 4 years.

2. This affidavit is made in support of a criminal complaint against AUDREY OWENS for violation of Title 18, United States Code, Section 641 - Theft of Government Funds.

3. The SSA/OIG/OI initiated an investigation based on a referral from Claims Representative ("CR") Hillary Langston of the Kansas City, MO SSA Office. CR Langston stated that the SSA was performing a "Centenarian project" wherein the SSA was contacting SSA beneficiaries who were over the age of 100. Pollie Gayden was included in this project; however, the SSA could not locate the whereabouts of Gayden. Subsequently, the SSA suspended Gayden's retirement insurance benefits ("RIB") due to the fact that they could not locate the whereabouts of Gayden. CR Langston referred this case to the SSA/OIG/OI for investigation.

4. On August 15, 2012, I queried the SSA computer database for Gayden's SSA record, SSN xxx-xx-8289, and discovered that her RIB was directly deposited into

Central Bank of Kansas City checking account number 803111 since March 7, 1996. Her RIB was suspended since August 2012 due to her unknown whereabouts.

5. On the same date, I queried the LexisNexis Accurint database for 1604 N. Kelly Ave., Upland, CA, and discovered that it was owned by Audrey OWENS and John Owens (“J. Owens”). Joseph Gayden Jr., (“J. Gayden”), SSN xxx-xx-7014, was also associated with this address. He was listed as deceased on December 18, 2006.

6. On August 17, 2012, I spoke with Central Bank of Kansas City Customer Service Officer Virginia, regarding checking account number 803111. She said the following:

- a. Gayden and OWENS (Unknown relation) were joint account holders. It was an active account.
- b. This account was opened in 1995.
- c. Gayden moved to California with her daughter, and her address was changed to 1604 N. Kelly Ave., Upland, CA on May 22, 2000.
- d. Every month, OWENS made online transfers from checking account number 803111 to a “USAA” bank account.
- e. Only activity on the account were SSA deposits for Gayden.
- f. There was no death report on file for Gayden.

7. On the same date, I queried the California Department of Motor Vehicles (“CA DMV”) via the California Law Enforcement Telecommunications System (“CLETS”) for OWENS and discovered that her driver license, #U0098417, listed the address 1604 Kelly, Upland, CA 91784.

8. On the same date, I queried the SSA computer database for OWENS, SSN xxx-xx-5025, and discovered that she did not receive any type of SSA benefit. Her father's name was listed as Joseph Gayden.

9. On August 30, 2012, I visited 1604 N. Kelly Ave., Upland, CA 91784 in order to attempt to locate Gayden. A black male answered the door. I identified myself as a SSA/OIG/OI Special Agent, and I showed him my credentials; however, he refused to identify himself. I asked for Gayden. He said that Gayden resided in Kansas City, MO. When I asked if he knew OWENS, he said that OWENS was Gayden's granddaughter. He said that OWENS worked during the day and was home in the evening. He wanted to know why I was looking for Gayden at his address. I told him that I would return at a future date in order to speak with OWENS.

10. On September 7, 2012, I performed an internet search for OWENS via the Google internet search engine and discovered that she was listed as an attorney for the County of Riverside Law Offices of the Public Defender in California, telephone number 951-955-6000.

11. On September 13, 2012, I left a message on OWENS' work voicemail, 951-955-6000, to call me regarding Gayden.

12. On September 17, 2012, a person who identified herself as "Audrey Owens" left a message on my work voicemail. She said to call her back at 951-955-9979.

13. On the same date, CR Langston called me and said that she received a copy of Gayden's death certificate from OWENS via mail on September 17, 2012. I told her to mail me what OWENS sent her. She said that she would mail me the documents

and also obtain a certified death certificate of Gayden in addition to the copy that OWENS sent her. I told her to terminate Gayden's RIB due to the death of Gayden.

14. On the same date, a person who identified herself as "Audrey Owens" left a message on my work voicemail. She said to call her back at her home, 909-985-8562.

15. On the same date, I called OWENS at 951-955-9979. She said the following:

- a. She was the person who mailed a copy of Gayden's death certificate to Social Security in Kansas City, MO.
- b. When asked if Gayden was her grandmother, she said "Yes."
- c. Gayden died in 2001.
- d. When asked if all of Gayden's SSA money was in her (Gayden) Central Bank of Kansas City account, she said "No."
- e. When asked where the SSA money was located, she said "It has been spent."
- f. When asked who spent Gayden's SSA money, she said "Me."
- g. At this time, I told the person who identified herself as OWENS that I would need to talk to her about Gayden's SSA money. She volunteered to meet me at the SSA/OIG/OI Santa Ana Office located at 3 Hutton Centre Drive, Suite 760, Santa Ana, CA 92707 on September 24, 2012 at 10:00 a.m.

16. On September 19, 2012, I received the documents that OWENS sent to SSA in Kansas City, MO. The review revealed the following:

- a. An envelope addressed to Social Security, 6320 Euclid Ave., Kansas City, MO 64132-1787, from Audrey Owens, 1604 N. Kelly Ave., Upland, CA

91784. The U.S. Postal Service (“USPS”) mailing/processing date on the envelope was stamped as September 5, 2012. I had visited 1604 N. Kelly Ave., Upland, CA 91784 on August 30, 2012 (six days prior to the mail sent by OWENS) in order to attempt to locate Gayden.

b. A copy of the SSA letter, dated July 10, 2012, addressed to Pollie Gayden, SSN xxx-xx-8289, 1604 Kelly, Upland, CA 91784. The SSA letter was sent by SSA, 6320 Euclid Ave., Kansas City, MO 64132. The SSA letter asked Pollie Gayden to contact SSA to discuss Gayden’s benefits.

c. A copy of Gayden's death certificate, Missouri State file number 124-00-101846. Gayden's death was listed as May 14, 2000. This death certificate copy was issued to Audrey Owens, 1604 N. Kelly Ave., Upland, CA 91784, on January 14, 2008.

17. On the same date, CR Langston provided me with an official copy of Gayden's death certificate, which she obtained on September 17, 2012.

18. On the same date, CR Langston provided me with an overpayment worksheet, which listed the SSA payments made to Gayden, SSN xxx-xx-8289, after her death from June 2000 through August 2012 in the amount of \$129,795.30.

19. On September 24, 2012, SSA/OIG/OI SA Jeff Schabillion and I interviewed OWENS at the SSA/OIG/OI Santa Office located at 3 Hutton Centre Drive, Suite 760, Santa Ana, CA 92707.

a. After being advised of the agents' identities, the purpose of the interview, and that she was not under arrest, OWENS' agreed to answer questions concerning Gayden's SSA money paid out after her death. OWENS' stated the following:

(1) She showed me with her California driver license (“CDL”) as proof of her identity.

(2) Gayden was her grandmother.

(3) Gayden died on May 14, 2000. Gayden was laid to rest in Missouri. Gayden resided in a high-rise senior facility in Missouri at the time of her death. Her younger brother, Joseph Gayden III, called her on Mother's Day and informed her of Gayden's death. Prior to her death, she, Gayden, and her father, J. Gayden, were joint account holders on Central Bank of Kansas City checking account number 803111. Prior to Gayden's death, OWENS knew that Gayden received RIB from the SSA, and that the RIB was directly deposited into Central Bank of Kansas City checking account number 803111 each month. She was not Gayden's SSA representative payee. On May 22, 2000, she changed the address on this account to 1604 N. Kelly Ave., Upland, CA. She told Central Bank of Kansas City that Gayden was deceased. She left Gayden's name on checking account number 803111 for sentimental reasons; however, she removed J. Gayden's name. She received the Central Bank of Kansas City bank statements for checking account 803111 at 1604 N. Kelly Ave., Upland, CA. She said that the SSA deposits on the bank statements did not specifically list Gayden's name; therefore, after Gayden's death, she believed that the deposits were from J. Gayden's U.S. Department of Veterans Affairs (“VA”) benefits. She knew that J. Gayden received benefits from the VA. J. Gayden was living at a care facility, and his VA benefits were being sent to the care facility. She thought that the money that continued to be directly deposited into Central Bank of Kansas City checking account #803111 was left over from J. Gayden's VA benefits and not needed by the care facility. She was not J. Gayden's

VA representative payee. The Central Bank of Kansas City statements for checking account 803111 that were mailed to her at 1604 N. Kelly Ave., Upland, CA had her name and Gayden's name listed on the statement header. There was approximately \$3,000.00 left in the bank account.

(4) She was on three Central Bank of Kansas City bank accounts with Gayden and J. Gayden. When Gayden died, she closed two accounts, including one that she believed was Gayden's, and she thought that she left J. Gayden's account open. Believing that she was using money from J. Gayden's account, when in fact, it was Gayden's SSA money from checking account #803111, she used the money to take care of Gayden's final expenses, take care of J. Gayden (who suffered from Alzheimer's Disease), and for her own needs, such as rent and utility bills.

(5) J. Gayden died in 2006 in Kansas City. It should be noted that J. Gayden's SSA record, xxx-xx-7014, listed his date of death as December 18, 2006. She reported J. Gayden's death to the VA. The VA told her that his benefits would stop; however, they didn't. It should be noted that the VA benefits OWENS was referring to as not stopping was actually Gayden's SSA money that kept being paid after her death on May 14, 2000.

(6) After J. Gayden's death in 2006, she and her husband, J. Owens would borrow money from what she believed were J. Gayden's VA funds from Central Bank of Kansas City checking account number 803111. They fell on hard times and were short of money. J. Owens's internet advertising business, Inlanders.com, went "Belly up." J. Owens has not had any income since his business failed and their ministry has not been in a position to pay him. She or J. Owens would make monthly online

transfers from Central Bank of Kansas City checking account #803111 to her USAA checking account. She knew at the time that it was wrong to take and spend what she believed constituted J. Gayden's VA funds after his death; however, she did so anyway. It should be noted that the VA funds that OWENS admitted to using were actually monies intended to be Gayden's SSA benefits that were improperly received after her death on May 14, 2000.

(7) She learned that the money in Central Bank of Kansas City checking account number 803111 was payable to Gayden. This has caused her much concern and worry as to how and when they would pay the money back. She has been concerned about her job and fearful about the outcome.

(8) She didn't report any of the money that she took from Gayden's bank account on her federal or state tax returns, because she didn't look at it in terms of income.

(9) When asked if she thought Gayden's SSA benefits should have stopped after her death, she said "Of course."

(10) When asked if she should have used Gayden's SSA money after her death for her own needs, she said "No."

(11) She said the following. "I don't want to go to jail." "I don't want my career destroyed." "I'm happy it's done with." "I've had lots of sleepless nights over this" referring to spending what she thought was J. Gayden's VA funds after his death.

(12) She said that the person that I talked to on August 30, 2012 at 1604 N. Kelly Ave., Upland, CA was Edumond Sawyer, a homeless person whom she

took in from her church. She claimed she did not know why Sawyer told me that Gayden was living in Kansas City, MO.

(13) Her cell phone number was 909-322-9213.

(14) J. Owens's telephone number was 909-985-8562.

(15) OWENS' voluntarily provided agents with a signed sworn statement of her verbal declarations during this interview, dated August 31, 2012.

20. On October 2, 2012, VA/OIG Special Agent Tom Oberhofer, 310-478-3711, ext. 40743, told me that J. Gayden, SSN xxx-xx-7014, received 100% U.S. military service (Army) connected VA disability benefits since approximately 2000 for Vascular Dementia. J. Gayden's last VA payment was December 1, 2006 in the amount of \$954.00. His date of death was listed as December 18, 2006. Prior to his death, J. Gayden resided at the Swope Ridge Geriatric Center in Kansas City, MO. J. Gayden's VA funds were sent to the Swope Ridge Geriatric Center via check prior to his death. J. Gayden had a professional fiduciary to handle his financial affairs.

21. On January 29, 2013, I reviewed the Central Bank of Kansas City signature card, bank statements, and checks drawn against checking account number 803111. Pollie Gayden died on May 14, 2000; however, her RIB continued to be directly deposited into this account until August 2012. My review revealed the following.

a. The signature card revealed that checking account number 803111 was opened as a new joint checking account on November 24, 1995 by Gayden and Audrey OWENS. Their address was listed as 3337 Park, KC, MO 64109. The signature card was signed by Gayden and OWENS.

b. Due to their retention policy, Central Bank of Kansas City only provided the bank statements for the time period January 6, 2005 through October 2, 2012. My review revealed the following:

(1) The statements listed Pollie Gayden, Audrey Owens, 1604 Kelly, Upland, CA 91784 on the header.

(2) Monthly Social Security deposits (listed as “DIRECT DEPOSIT US TREASURY 310 SOC SEC”) from December 3, 2004 through August 3, 2012.

(3) A SSA Economic Recovery Payment (“ERP”) in the amount of \$250.00 was directly deposited into this account on May 7, 2009. This deposit was listed as “DIRECT DEPOSIT US TREASURY 310 SSA ERP”. It should be noted that the American Recovery and Reinvestment Act (“ARRA”) was enacted in 2009. As part of the ARRA, a one-time payment of \$250 was made to retirees, disabled individuals and Supplemental Security Income (“SSI”) recipients receiving benefits from SSA.

(4) Two direct deposits made on July 2, 2010 in the amount of 42 cents and 23 cents from “USAA FSB TRIALCREDIT”. On the same date, a debit of 65 cents was made by “ACH TRANSACTION USAA FSB TRIALDEBIT”.

(5) Other than the two deposits made on July 2, 2010, the only deposits made into this account were Social Security payments and a one-time SSA ERP.

(6) My review of the checks drawn against this account revealed that they were made by OWENS.

(7) The checks drawn by OWENS from December 30, 2004 to November 29, 2005 listed the address 3337 Park, Kansas City, MO 64109. From December 16, 2005 through December 12, 2011, the address on the checks drawn by OWENS listed the address 1604 N. Kelly Ave., Upland, CA 91784. Check #1108, dated October 11, 2011, in the amount of \$300.00 was made payable to the order of "Riverside County Employee Campaign". OWENS is an attorney for the County of Riverside Law Offices of the Public Defender in California.

(8) Beginning in July 2010 (and continuing through August 2012) various electronic internet transfers were made from Central Bank of Kansas City checking account number 803111 to USAA Federal Savings Bank account numbers 00493-9526-2 and 00393-1017-5. USAA Federal Savings Bank account #00493-9526-2 belonged to OWENS with an address listed as 1604 N. Kelly Ave., Upland, CA 91784. Account #00393-1017-5 belonged to OWENS and J. Owen with an address listed as 1604 N. Kelly Ave., Upland, CA 91784.

(9) The ending balance in Central Bank of Kansas City checking account number 803111 for the statement period ending October 2, 2012 was \$3,727.53.

22. On January 31, 2013, I queried the California Law Enforcement Telecommunications System ("CLETS") for J. Owens and discovered that he had a California driver license in the name of "John Kelton Owens." His address listed as 1604 Kelly Ave., Upland, CA 91784.

23. My CLETS query also revealed a criminal history for J. Owens. His criminal history consisted of the following law enforcement contacts: 1982 – ADW

Peace Officer/Fireman out of San Bernardino, CA; however, rejected by prosecutor.

1987 – Disobey Court Order out of San Bernardino, CA; however, disposition unknown.

24. On February 1, 2013, I reviewed the SSA computer database for J. Owens, SSN xxx-xx-0567, and discovered that he did not receive any type SSA/SSI benefit; however, he was listed as having received SSA disability benefits retroactive to a two year period in 1988 due to a favorable decision made in 2006. His children were listed as auxiliary beneficiaries during this time. The names of his children are Yule Owens, Jerry Walker Jr., and John K. Owens Jr.

25. On the same date, I reviewed Gayden's, SSN xxx-xx-8289, Automated Clearing House (“ACH”) SSA payment history for the SSA payments made after her death. Gayden died on May 14, 2000. This SSA payment history was provided to me by SSA/Office of Inspector General (“SSA/OIG”) Criminal Research Specialist Veronica Quinio. Gayden’s SSA payments were directly deposited into Central Bank of Kansas City checking account number 803111 from June 2, 2000 through August 3, 2012.

26. On March 25, 2013, I reviewed the funds transfer history for USAA Federal Savings Bank account number 39310175 for the time period January 2010 through November 2012. Account number 39310175 belonged to OWENS and J. Owens. Four electronic transfers totaling \$2,600.00 were made from Central Bank of Kansas City checking account number 803111 to USAA Federal Savings Bank account number 39310175.

27. On the same date, I reviewed the cancelled checks for USAA Federal Savings Bank account number 39310175 for the time period February 2010 through May

2012. J. Owens wrote seven checks against the account for a total of \$1,250.00.

OWENS wrote five checks against the account for a total of \$4,013.18.

28. On the same date, I reviewed the funds transfer history for USAA Federal Savings Bank account number 49395262 for the time period July 2010 through October 2012. Account number 49395262 belonged to OWENS. 17 electronic transfers totaling \$16,000.00 were made from Central Bank of Kansas City checking account number 803111 to USAA Federal Savings Bank account number 49395262.

29. Based on my training as a SA and the information received from SSA as part of this investigation, I know that Gayden's RIB payments should have been terminated after her death. Her RIB payments should not have continued to be paid after her death. OWENS was not entitled to Gayden's RIB payments after her death. Altogether, OWENS improperly obtained approximately \$129,795.30, from June 2000 through August 2012, that belonged to the United States.

30. Based on the foregoing facts, I believe that there is probable cause to believe that AUDREY OWENS fraudulently negotiated Gayden's RIB payments after her death in violation of Title 18, United States Code, Section 641 - Theft of Government Funds.

DEAN LAKE
Special Agent
Social Security Administration
Office of the Inspector General
Office of Investigations

Subscribed and sworn before me
on this ____ day of June 2013

SHERI PYM
UNITED STATES MAGISTRATE JUDGE