

UNITED STATES DISTRICT COURT
FILED

NORTHERN DISTRICT OF CALIFORNIA
2009 SEP 23 A 11:25

SAN JOSE DIVISION

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

THE UNITED STATES OF AMERICA

vs.

SETH SUNDBERGE-filing

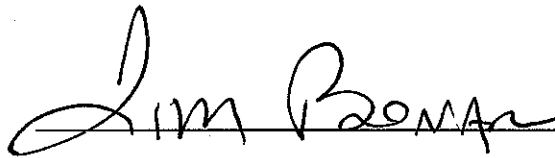
INDICTMENT

COUNT ONE: 18 U.S.C. § 1341 - Mail Fraud

COUNT TWO: 26 U.S.C. § 7206(1) - Fraud and False Statement in Tax Return

COUNT THREE: 18 U.S.C. § 287 - False and Fraudulent Claims

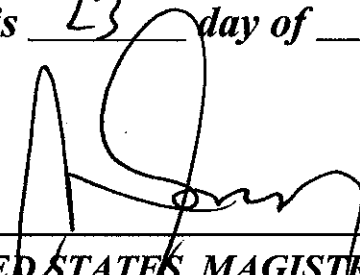
A true bill.



Foreperson

Filed in open court this 23 day of Sept

A.D. 2009



UNITED STATES MAGISTRATE JUDGE

SC

Bail. \$ NO process

ORIGINAL

1 JOSEPH P. RUSSONIELLO (CSBN #132)
United States Attorney

FILED

2009 SEP 23 A 11: 25

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

E-filing

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 SETH SUNDBERG,

15 Defendant.

CR - 09 00928

VIOLATIONS: 18 U.S.C. § 1341 – Mail
Fraud; 26 U.S.C. § 7206(1) – False
Statement on Tax Return; 18 U.S.C. § 287 –
False Claim Against the United States

SAN JOSE VENUE

JF
PVT

17 INDICTMENT

18 The Grand Jury charges:

19 The Scheme and Artifice to Defraud

20 At all times relevant to this Indictment:

21 1. Defendant Seth Sundberg (“Sundberg”) resided in San Carlos, California.

22 2. On or about April 14, 2009, Sundberg signed under the penalties of perjury and
23 filed a Form 1040 Individual Income Tax Return for the 2008 tax year with the United States
24 Department of Treasury, Internal Revenue Service (“IRS”).

25 3. On that 2008 income tax return, Sundberg made the following false statements,
26 among others:

27 a. in Schedule B (Interest and Ordinary Dividends), Sundberg claimed to have
28 received \$5,732,580 in taxable “original issue discount” (“OID”) interest income;

1 COUNT THREE: (18 U.S.C. § 287 - False or Fraudulent Claims)

2 9. Paragraphs 1 through 4 are realleged and incorporated as if fully set forth here.

3 10. On or about April 14, 2009, in the Northern District of California, the defendant,
4 SETH SUNDBERG,

5 did make and present a claim upon and against the United States and a department and agency
6 thereof, knowing at the time he made the claim that it was false, fictitious, and fraudulent, in
7 violation of Title 18, United States Code, Section 287.

8 FORFEITURE ALLEGATION: (18 U.S.C. § 981(a)(1)(D)(v) and 28 U.S.C. § 2461(c) –
9 Forfeiture of Proceeds of Mail Fraud)

10 11. The factual allegations contained in Count 1 of this Indictment are re-alleged and
11 by this reference fully incorporated here for the purpose of alleging forfeiture pursuant to the
12 provisions of 18 U.S.C. § 981(a)(1)(D)(v) and 28 U.S.C. 2461(c).

13 12. Upon a conviction of the offense alleged in Count 1, the defendant,
14 SETH SUNDBERG,

15 shall forfeit to the United States all property, constituting and derived from proceeds traceable to
16 said offense, including but not limited to the following property:

17 (a) **Money Judgment:** a sum of money equal to \$5,083,609, representing the
18 gross proceeds obtained as a result of the offense.

19 (b) **Cash, Currency, and Monetary Instruments:**

- 20 1. \$322,000 in cashier's checks recovered from Seth Sundberg on
21 September 9, 2009.
22 2. \$117,473 in cash recovered from Seth Sundberg on September 9,
23 2009.
24 3. \$75,729 in gold and silver coins recovered from Seth Sundberg on
25 September 9, 2009.

26 13. If any of said property, as a result of any act or omission of the defendant –

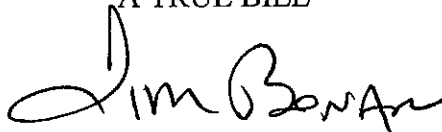
27 (a) cannot be located upon the exercise of due diligence;

28 (b) has been transferred or sold to or deposited with, a third person;

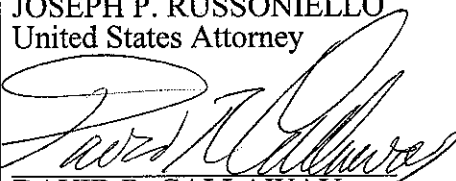
1 (c) has been placed beyond the jurisdiction of the Court;
 2 (d) has been substantially diminished in value; or
 3 (e) has been commingled with other property which cannot be subdivided
 4 without difficulty;
 5 any and all interest defendant has in other property shall be vested in the United States and
 6 forfeited to the United States pursuant to Title 21, United States Code, Section 853(p), as
 7 incorporated by Title 28, United States Code, Section 2461(c) and Rule 32.2 of the Federal Rules
 8 of Criminal Procedure.

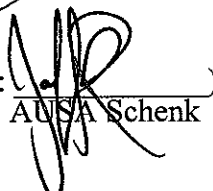
9 DATED:

A TRUE BILL


 11 FOREPERSON

12 JOSEPH P. RUSSONIELLO
 13 United States Attorney

14 
 15 DAVID R. CALLAWAY
 16 Chief, San Jose Branch Office

17 (Approved as to form: 
 18 AUSA Schenk

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA

OFFENSE CHARGED

18 U.S.C. § 1341 - Mail Fraud; 26 U.S.C. § 7206(1) - False Statement on Tax Return; 18 U.S.C. § 287 - False Claim Against the United States

Petty
 Minor
 Misdemeanor
 Felony

PENALTY:
See Attachment

FILED
SEP 23 AM 11:25
RICHARD W. WIERING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

CR - 09 00928 JF PVT

PROCEEDING
Name of Complainant Agency, or Person (& Title, if any)
Internal Revenue Service

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

this is a re prosecution of charges previously dismissed which were dismissed on motion of:

U.S. Atty Defense

this prosecution relates to a pending case involving this same defendant

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW DOCKET NO.

MAGISTRATE CASE NO.

09-70796-RS

Name and Office of Person Furnishing Information on THIS FORM
JOSEPH P. RUSSONIELLO
 U.S. Atty Other U.S. Agency

Name of Asst. U.S. Atty (if assigned)
JEFFREY B. SCHENK

DEFENDANT - U.S.

SETH SUNDBERG

DISTRICT COURT NUMBER

DEFENDANT

IS NOT IN CUSTODY

- 1) Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges
- 2) Is a Fugitive
- 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
- 5) On another conviction
- 6) Awaiting trial on other charges

Fed'l State

If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No } If "Yes" give date filed

DATE OF ARREST Month/Day/Year

Or... if Arresting Agency & Warrant were not Month/Day/Year

DATE TRANSFERRED TO U.S. CUSTODY

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT Bail Amount: _____

If Summons, complete following:

Arraignment Initial Appearance

Defendant Address: _____

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____

Before Judge: _____

Comments: _____

United States v. Seth Sundberg
Maximum Penalties

18 U.S.C. § 1341 – Mail Fraud

10 years imprisonment
3 years Supervised Release
\$250,000 fine
\$100 Special Assessment Fee

26 U.S.C. § 7206(1) – False Statement on Tax Return

3 years imprisonment
1 year Supervised Release
\$100,000 fine (plus costs of prosecution)
\$100 Special Assessment Fee

18 U.S.C. § 287 – False Claim Against the United States

5 years imprisonment
3 years Supervised Release
\$250,000 fine (or twice the value of the gross gain or loss)
\$100 Special Assessment