

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

2012 MAY 24 PM 12:06
CLERK, US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA

v.

CASE NO. 8:12-CR-219-T-27AEP
18 U.S.C. § 1343
18 U.S.C. § 287
18 U.S.C. § 641
18 U.S.C. § 1028A
18 U.S.C. § 981(a)(1)(C) - Forfeiture
28 U.S.C. § 2461(c) - Forfeiture

RUSSELL B. SIMMONS, JR.

INDICTMENT

SEALED

The Grand Jury charges:

COUNTS ONE THROUGH EIGHT
(Wire Fraud)

A. Introduction

At all times material to this Indictment:

1. The defendant, RUSSELL B. SIMMONS, JR., was a resident of Tampa, in the Middle District of Florida.
2. SIMMONS owned and operated Simmons Auto Sales, Inc., a "buy here/pay here" automobile dealership located at 4615 North 34th Street, Tampa, in the Middle District of Florida.
3. SIMMONS, in part through Simmons Auto Sales, engaged in a scheme and artifice to defraud the U.S. Treasury Department, commonly known as "Turbo Tax Fraud," by filing fraudulent income tax returns and negotiating fraudulent federal income tax refunds.

B. The Scheme and Artifice

4. Beginning on a date unknown to the grand jury, and continuing through at least on or about September 1, 2011, in the Middle District of Florida and elsewhere,

RUSSELL B. SIMMONS, JR,

the defendant herein, did knowingly devise and intend to devise a scheme and artifice to defraud, for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises.

C. Manner and Means of the Scheme

5. The manner and means by which the defendant sought to accomplish the scheme and artifice included, among other things, the following:

a. It was part of the scheme and artifice that the defendant would and did operate a used car dealership called Simmons Auto Sales, Inc., located in Tampa in the Middle District of Florida.

b. It was part of the scheme and artifice that the defendant would and did accept, purchase, and negotiate U.S. Treasury checks that he knew to be fraudulently obtained from coconspirators, some of whom were purchasing automobiles.

c. It was further part of the scheme and artifice that the defendant, knowing the U.S. Treasury checks to be fraudulent and the result of the filing of false federal income tax returns with stolen identities, would and did accept Treasury checks with a much higher face value than the vehicles he sold to his coconspirators.

d. It was further part of the scheme and artifice that the defendant would and did accept, negotiate, and “swipe” reloadable debit cards, also known as “Green Dot cards,” at Simmons Auto that he knew contained fraudulently obtained income tax refunds. In some cases, the defendant swiped these cards for coconspirators who were purchasing no goods or services from his car dealership. The defendant would and did keep a large portion of the value of the cards as a price for his illegal processing and provided the balance to his coconspirators in cash.

e. It was further part of the scheme and artifice that the defendant would and did personally electronically file fraudulent federal income tax returns in order to generate and obtain tax refunds to which he was not entitled.

f. It was further part of the scheme and artifice that the defendant would and did use the stolen personal identifying information, such as names and social security numbers, of deceased, incarcerated, or elderly individuals, among others, to file fraudulent federal income tax returns.

g. It was further part of the scheme and artifice that the defendant would and did direct that his fraudulently obtained tax refunds be deposited onto reloadable debit cards, often opened in the names of third parties whose identities the defendant also stole.

h. It was further part of the scheme and artifice that, among other things, the defendant would and did use the cards containing the fraudulent tax refunds at ATM machines from which he obtained money orders that he then deposited into bank accounts under his control and/or used to purchase vehicles for his car lot.

i. It was further part of the scheme and artifice that defendant would and did misrepresent, conceal, hide, and cause to be misrepresented, concealed, and hidden, acts done in furtherance of the scheme to defraud and the purpose of those acts.

D. INTERSTATE WIRE TRANSMISSIONS

6. On or about the dates listed below, in the Middle District of Florida and elsewhere,

RUSSELL B. SIMMONS, JR,

the defendant herein, for the purpose of executing the aforementioned scheme and artifice and attempting to do so, transmitted and caused to be transmitted by wire in interstate commerce the following electronically filed federal income tax returns:

Count	Victim	Date	From	To
ONE	LS	7/8/11	Tampa, FL	IRS Service Center, Philadelphia, PA
TWO	CR	7/26/11	Tampa, FL	IRS Service Center, Philadelphia, PA
THREE	JC	7/24/11	Tampa, FL	IRS Service Center, Philadelphia, PA
FOUR	KC	7/24/11	Tampa, FL	IRS Service Center, Philadelphia, PA
FIVE	RC	7/21/11	Tampa, FL	IRS Service Center, Philadelphia, PA
SIX	JM	7/26/11	Tampa, FL	IRS Service Center, Philadelphia, PA
SEVEN	AB	7/26/11	Tampa, FL	IRS Service Center, Philadelphia, PA
EIGHT	AP	8/14/11	Tampa, FL	IRS Service Center, Philadelphia, PA

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNTS NINE THROUGH SIXTEEN
(Filing False Claims)

7. On or about the dates set forth below, in the Middle District of Florida, and elsewhere,

RUSSELL B. SIMMONS, JR,

the defendant herein, knowingly made and presented, and caused to be made and presented, to the Internal Revenue Service, an agency of the U.S. Department of the Treasury, a claim against the United States for payment, which he knew to be false, fictitious, and fraudulent with respect to material facts, by preparing and causing to be prepared a U.S. Individual Income Tax Return Form 1040 for the tax year 2010, which was filed with the Internal Revenue Service and claimed a refund on behalf of the individuals named below on the dates indicated below:

Count	Tax Payer	Filing Date	Refund Claimed
NINE	LS	7/8/11	\$9,997.00
TEN	CR	7/26/11	\$9,997.00
ELEVEN	JC	7/24/11	\$9,997.00
TWELVE	KC	7/24/11	\$9,817.00
THIRTEEN	RC	7/21/11	\$9,817.00
FOURTEEN	JM	7/26/11	\$9,817.00
FIFTEEN	AB	7/26/11	\$9,817.00
SIXTEEN	AP	8/14/11	\$9,817.00

All in violation of Title 18, United States Code, Sections 287 and 2.

COUNTS SEVENTEEN THROUGH TWENTY-THREE
(Theft of Government Property)

8. On or about the dates listed below, in the Middle District of Florida and elsewhere,

RUSSELL B. SIMMONS, JR,

the defendant herein, did knowingly and willfully steal, embezzle, purloin and convert to his own use and the use of another, more than \$1,000 in United States currency with the intent to deprive the owner of the use and benefit of the property so taken, said funds being a tax refund fraudulently issued in the name of the victim listed below, on the date listed below, which was the property of the United States Treasury, and of the United States of America:

Count	Tax Payer	Date of Refund	Refund Amount
SEVENTEEN	LS	7/22/11	\$9,997.00
EIGHTEEN	CR	8/5/11	\$9,997.00
NINETEEN	JC	8/5/11	\$9,997.00
TWENTY	KC	8/5/11	\$9,817.00
TWENTY-ONE	RC	8/5/11	\$9,817.00
TWENTY-TWO	JM	8/5/11	\$9,817.00
TWENTY-THREE	AB	8/5/11	\$6,649.20

In violation of Title 18, United States Code, Sections 641 and 2.

COUNTS TWENTY-FOUR THROUGH THIRTY-TWO
(Aggravated Identity Theft)

9. On or about the dates listed below, in the Middle District of Florida and elsewhere,

RUSSELL B. SIMMONS, JR,

the defendant herein, did knowingly transfer, possess and use without lawful authority, a means of identification of another person during and in relation to the felony offense of theft of government property, in violation of 18 U.S.C. § 641:

Count	Tax Payer	Date	Description
TWENTY-FOUR	LS	7/8/11	Use of victim's name and Social Security Number to file federal income tax return for 2010 tax year
TWENTY-FIVE	CR	7/26/11	Use of victim's name and Social Security Number to file federal income tax return for 2010 tax year
TWENTY-SIX	JC	7/24/11	Use of victim's name and Social Security Number to file federal income tax return for 2010 tax year
TWENTY-SEVEN	KC	7/24/11	Use of victim's name and Social Security Number to file federal income tax return for 2010 tax year
TWENTY-EIGHT	RC	7/21/11	Use of victim's name and Social Security Number to file federal income tax return for 2010 tax year
TWENTY-NINE	JM	7/26/11	Use of victim's name and Social Security Number to file federal income tax return for 2010 tax year
THIRTY	AB	7/26/11	Use of victim's name and Social Security Number to file federal income tax return for 2010 tax year
THIRTY-ONE	CW	8/5/11	Use of victim's reloadable debit card for deposit of CR's fraudulent income tax refund
THIRTY-TWO	KN	8/5/11	Use of victim's reloadable debit card for deposit of AB's fraudulent income tax refund

In violation of Title 18, United States Code, Sections 1028A and 2.

FORFEITURE

1. The allegations contained in Counts One through Eight and Seventeen through Twenty-Three of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Sections 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. Upon conviction of the violations of Title 18, United States Code, Sections 1343 and 641 alleged in Counts One through Eight and Seventeen through Twenty-Three of this Indictment, defendant RUSSELL B. SIMMONS, Jr. shall forfeit to the United States of America, pursuant to Title 18, United States Code, Sections 981(a)(1)(c) and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to those violations.

3. The property to be forfeited includes, but is not limited to a forfeiture money judgment of at least \$1,176,787.00, representing the total amount of proceeds obtained as a result of the violations and the following items, which constitute or were purchased with proceeds traceable to the violations:

Items Seized from the Defendant on or about August 31, 2011

- a. approximately \$118,275.00 stored on 143 Green Dot and Wal-Mart Money cards;
- b. 2005 Bentley GT, Baranato Green, VIN SCBCR63W25C026307;
- c. 18 Karat Gold Rolex Oyster Perpetual Day Date Watch with a Diamond Dial;
- d. 14 Karat Gold Necklace with "RS" Pendant with 703 Diamonds;
- e. 14 Karat Gold Double Cuban Link Chrome Chain;
- f. 14 Karat Gold Men's Ring with 110 Diamonds;
- g. 14 Karat Gold and Diamond Men's Bracelette with 2,420 Round Diamonds;
- h. 14 Karat Gold Men's Square Ring;
- i. KC Stainless Steel Men's Watch with 57 Diamonds;

- j. KC Stainless Steel Men's Watch with 33 Diamonds; and
- k. approximately \$25,000.00 in U.S. Currency.

Item Seized from Defendant on or about November 11, 2011

- l. approximately \$22,580 in U.S. Currency.

The net proceeds from the forfeiture of these items shall be applied to the forfeiture money judgment.

4. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

A TRUE BILL,

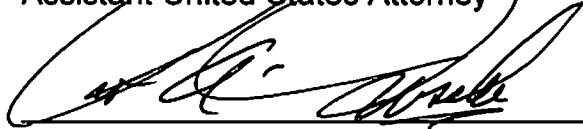


Foreperson

ROBERT E. O'NEILL
United States Attorney

By: 

AMANDA L. RIEDEL
Assistant United States Attorney

By: 

ROBERT A. MOSAKOWSKI
Assistant United States Attorney
Chief, Economic Crimes Section

No.

UNITED STATES DISTRICT COURT

Middle District of Florida
Tampa Division

THE UNITED STATES OF AMERICA

vs.

RUSSELL B. SIMMONS

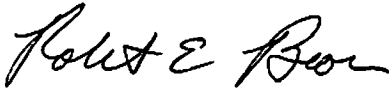
INDICTMENT

Violations:

18 USC §§ 1343, 287, 641, and 1028A

A true bill,

Foreperson



Filed in open court this 24th day

of May, 2012.

Clerk

Bail \$

2012 MAY 24 PM 12:06
CLERK, US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

FILED