

1 ROBERT S. MUELLER, III (CBN 59775)
2 United States Attorney

13 FEB 13 PM 3:50
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

USA

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8 IN THE UNITED STATES DISTRICT COURT FOR THE
9 NORTHERN DISTRICT OF CALIFORNIA

10 SAN JOSE DIVISION

CR00 20129

11 UNITED STATES OF AMERICA,

No.

12 Plaintiff,

VIOLATIONS: 18 USC 371 -
Conspiracy to Defraud The United
States; 26 USC § 7201 - Tax Evasion;
26 USC § 7207 -False Document

13 v.

14 PHUONG THI DAO LE and
15 STANLEY DELCARLO,

16 Defendants.

SAN JOSE VENUE

17 I N D I C T M E N T

18 The Grand Jury charges:

19 COUNT ONE: (18 U.S.C. § 371 - Conspiracy To Defraud The United States)

20 INTRODUCTION - DEFINITIONS

21 1. The Internal Revenue Service ("IRS") is an agency of the United States within the
22 Department of the Treasury of the United States.

23 2 (a) The Internal Revenue Code (Title 26 of the United States Code) contains to the
24 statutes and laws of the United States concerning, among other things, tax liability.

25 (b) "Federal Income tax" refers to the tax due the United States under the Internal
26 Revenue Code.

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1 3. Lyon Chiropractic Clinic was a chiropractic clinic with an office in San Jose, California,

2 4. Downtown Chiropractic Clinic was a chiropractic clinic with an office in Oakland,
3 California. (The Lyon Chiropractic Clinic and the Downtown Chiropractic Clinic are referred to
4 collectively below as the "Clinics").

5 5. The defendant Phuong Thi Dao Le owned Lyon Chiropractic Clinic and Downtown
6 Chiropractic Clinic during 1993 and 1994.

7 6. Phuong Thi Dao Le paid Stanley del Carlo a salary to provide chiropractic services at
8 the Lyon Chiropractic Clinic and Downtown Chiropractic Clinic.

9 7. On or about and between April 1990 and October 1995, both dates being approximate
10 and inclusive, in the Northern District of California, and elsewhere, the defendants

11 PHUONG THI DAO LE and
12 STANLEY DEL CARLO

13 and others did knowingly and intentionally conspire to defraud the United States by attempting to
14 defeat and obstruct the lawful functions of the IRS in the ascertainment, computation, assessment and
15 collection of revenue, namely federal income taxes owed by Phuong Thi Dao Le, through deceit, craft,
16 trickery and dishonest means.

17 8. It was part of the conspiracy to defraud that the defendants would and did do the
18 following:

19 (a) The defendants Phuong Thi Dao Le and Stanley del Carlo agreed that del Carlo would
20 falsely claim that he was the proprietor of the Clinics and he would file tax returns claiming he was the
21 proprietor of the Clinics, so that the defendant Phuong Thi Dao Le could benefit from the lower tax
22 rate applicable to Stanley del Carlo.

23 (b) The defendant Stanley del Carlo in fact filed tax returns claiming to be the proprietor of
24 the Clinics for the years 1993 and 1994.

25 (c) The defendant Phuong Thi Dao Le diverted checks received by the Clinics to herself
26 and directed that the amounts of those checks not be reported as income by the Clinics.

27 (d) The approximate amount of cash diverted by Phuong Thi Dao Le from the two
28 chiropractic clinics, but not reported by either defendant on an income tax return, was over \$400,000.

OVERT ACTS

In furtherance of the conspiracy and to effect the objects thereof, the following overt acts were committed in the Northern District of California and elsewhere:

9. Phuong Thi Dao Le hired Stanley del Carlo, a California licensed chiropractor, in 1990.

10. On July 5, 1991, Stanley del Carlo filed or caused to be filed a Fictitious Business Name statement in San Jose, California claiming Stanley del Carlo was the owner of Lyon Chiropractic Clinic.

11. On August 25, 1992, Stanley del Carlo filed or caused to be filed a Fictitious Business Name statement in Oakland California claiming Stanley del Carlo was the owner of Downtown Chiropractic Clinic.

12. From April of 1990 through May of 1994, Phuong Thi Dao Le paid Stanley del Carlo a salary for his chiropractic services.

13. On or about June 24, 1993 Phuong Thi Dao Le directed the office manager of Lyon Chiropractic Clinic to set aside a State Farm Mutual Automobile Insurance check dated June 24, 1993 in the amount of \$3,248 and not to deposit such check. Phuong Thi Dao Le caused the check to be cashed at Asia Express.

14. On or about July 2, 1993 Phuong Thi Dao Le directed the office manager of Downtown Chiropractic Clinic to set aside a State Farm Mutual Automobile Insurance check dated July 2, 1993 in the amount of \$1,475.00 and not to deposit such check. Phuong Thi Dao Le caused the check to be cashed at Asia Express.

15. On or about May 10, 1994 Phuong Thi Dao Le directed the office manager of Lyon Chiropractic Clinic to set aside a Law Offices of Mark Morris check dated May 10, 1994 in the amount of \$3,925 and not to deposit such check. Phuong Thi Dao Le caused the check to be cashed at Asia Express.

16. On or about May 15, 1994 Phuong Thi Dao Le directed the office manager of Downtown Chiropractic Clinic to set aside a Green & Wengerter check dated May 15, 1994 in the amount of \$2,035 and not to deposit such check. Phuong Thi Dao Le caused the check to be cashed at Asia Express.

17. On April 15, 1994 Stanley del Carlo filed his 1993 Individual Income Tax Return attaching Schedules C thereto whereon he claimed to be the proprietor of Lyon Chiropractic Clinic and Downtown Chiropractic Clinic.

18. On April 15, 1995 Stanley del Carlo filed his 1994 Individual Income Tax Return attaching Schedules C thereto whereon he claimed to be the proprietor of Lyon Chiropractic Clinic and Downtown Chiropractic Clinic.

19. On or about June 8, 1995 Phuong Thi Dao Le mailed to the IRS an Individual Income Tax Return for the year 1993.

20. On or about October 27, 1995 Phuong Thi Dao Le mailed to the IRS an Individual Income Tax Return for the year 1994.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO: (26 U.S.C. § 7201)

On or about October 27, 1995, in the Northern District of California, the defendant

PHUONG THI DAO LE.

then a resident of San Jose, California, did willfully and knowingly attempt to evade and defeat a part of the income tax due and owing by defendant to the United States of America for the calendar year 1993 by preparing, signing, and mailing or otherwise delivering, and causing to be prepared, signed and mailed or otherwise delivered, a false and fraudulent individual income tax return, which return was filed with the Internal Revenue Service, wherein it was stated that the tax due and owing to the United States for the calendar year 1993 was \$848.00, whereas, as she then and there well knew and believed, her taxable income for the said calendar year was substantially in excess of that heretofore stated and that upon said additional taxable income a substantial additional tax was due and owing to the United States of America.

In violation of Title 26, United States Code, Section 7201.

COUNT THREE: (26 U. S.C. § 7201)

On or about June 8, 1995, in the Northern District of California, the defendant

PHUONG THI DAO LE

then a resident of San Jose, California, did willfully and knowingly attempt to evade and defeat a part

1 of the income tax due and owing by defendant to the United States of America for the calendar year
2 1994 by preparing, signing, and mailing or otherwise delivering, and causing to be prepared, signed
3 and mailed or otherwise delivered, a false and fraudulent individual income tax return, which return
4 was filed with the Internal Revenue Service, wherein it was stated that the tax due and owing to the
5 United States for the calendar year 1994 was \$ 1,167.00, whereas, as she then and there well knew
6 and believed, her taxable income for the said calendar year was substantially in excess of that
7 heretofore stated and that upon said additional joint taxable income a substantial additional tax was
8 due and owing to the United States of America.

9 In violation of Title 26, United States Code, Section 7201.

10 COUNT FOUR: (26 U S C. § 7207)

11 On or about April 15, 1994, in the Northern District of California, the defendant
12 STANLEY DEL CARLO,
13 then a resident of San Jose, California, did willfully deliver and disclose by submitting to the Internal
14 Revenue Service, United States Treasury Department, a 1993 Individual Income Tax Return known by
15 him to be false as to material matters, in that such tax return contained a Schedules C which claimed
16 that the defendant Stanley Del Carlo was the proprietor of the Lyon Chiropractic Clinic and the
17 Downtown Chiropractic clinic and reported income and expenses from such clinics when Stanley del
18 Carlo was not the proprietor of such clinics and did not receive the reported income nor did he pay the
19 reported expenses of such clinics.

20 In violation of Title 26, United States Code, Section 7207.

21 COUNT FIVE: (26 U S C. § 7207)

22 On or about April 15, 1995, in the Northern District of California, the defendant
23 STANLEY DEL CARLO,
24 then a resident of San Jose, California, did willfully deliver and disclose by submitting to the Internal
25 Revenue Service, United States Treasury Department, a 1994 Individual Income Tax Return known by
26 him to be false as to material matters, in that such tax return contained a Schedules C which claimed
27 that the defendant Stanley Del Carlo was the proprietor of the Lyon Chiropractic Clinic and the
28 Downtown Chiropractic Clinic and reported the income and expenses of such clinics when Stanley del

1 Carlo was not the owner of such clinics and did not receive the reported income nor did he pay the
2 reported expenses of such clinics.

3 In violation of Title 26, United States Code, Section 7207.

4 A True Bill

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6 Dated: _____

FOREPERSON

7
8 ROBERT S. MUELLER, III
United States Attorney

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11 DAVID W. SHAPIRO
Chief, Criminal Section

12 Approved as to Form

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14 AUSA: 

THOMAS MOORE

1 23. I confirm that my decision to enter a guilty plea is made knowing the charges that
2 have been brought against me, any possible defenses, and the benefits and possible detriments of
3 proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no
4 one coerced or threatened me to enter into this agreement.

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8 Dated: 5-14-01


STANLEY DEL CARLO
Defendant

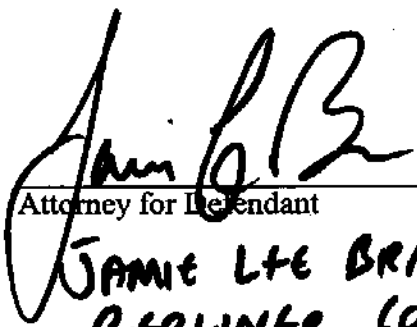
ROBERT S. MUELLER, III
United States Attorney

12
13 Dated: 5-14-01


THOMAS MOORE
Assistant United States Attorney
Tax Division

16 I have fully explained to my client all the rights that a criminal defendant has and all the
17 terms of this Agreement. In my opinion, my client understands all the terms of this Agreement
18 and all the rights he is giving up by pleading guilty, and, based on the information now known to
19 me, his decision to plead guilty is knowing and voluntary.

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22
23 Dated: 5-14-01


Attorney for Defendant

JAMIE L. E. BRANDT
BERLINER COHEN