

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. _____
v.	:	DATE FILED: _____
	:	VIOLATIONS:
PATRICIA FOUNTAIN,	:	18 U.S.C. § 286 (conspiracy - 1 count)
LARRY ISHMAEL	:	18 U.S.C. § 287 (false claims to IRS -
	:	13 counts)
	:	26 U.S.C. § 7206(1) (filing a false tax
	:	return - 1 count)
	:	26 U.S.C. § 7206(2) (aiding and assisting
	:	the presentation of a false tax return
	:	- 1 count)
	:	18 U.S.C. § 1951 (Hobbs Act extortion- 1
	:	count)
	:	31 U.S.C. § 5324(a) (structuring of
	:	financial transactions - 1 count)
		Notice of forfeiture

INDICTMENT

COUNT ONE

THE GRAND JURY CHARGES THAT:

At all times relevant to this indictment:

THE IRS AND THE TETR

1 The Internal Revenue Service (IRS) is an agency of the United States Department of the Treasury, responsible for administering and enforcing the tax laws of the United States.

2. The tax laws of the United States require every citizen and resident of the United States who received gross income in excess of the minimum filing amount established by law for a particular tax year to annually make a federal individual income tax return for that tax year, and to file such a tax return with the IRS using IRS Forms 1040 and/or other IRS forms.

3. Upon receipt of a filed tax return showing that a refund is due to a particular taxpayer, the IRS typically issues a refund to the taxpayer payable by the United States Treasury. As directed by the particular taxpayer, the IRS either mails the refund check to the address listed on the tax return filed with the IRS or electronically deposits the refund to an account of the taxpayer's choosing via "direct deposit."

4. The Telephone Excise Tax Refund or Telephone Excise Tax Credit (TETR) was a one-time payment that individuals, businesses, nonprofits, and government entities could claim for telephone excise taxes actually paid from February 28, 2003 to August 1, 2006. The TETR credit could only be claimed on 2006 U.S. tax returns.

5. Taxpayers could claim the TETR by claiming a standard refund amount between \$30 and \$60 dollars or by having the refunds computed using the actual amount of federal excise tax previously paid.

6. If taxpayers elected to use the actual amount of federal excise tax previously paid to claim the TETR, they were required to complete IRS Form 8913, Credit for Federal Telephone Excise Tax Paid, and attach the form to their income tax return. Taxpayers were required by law to provide accurate information about the actual amount of federal excise tax they had previously paid. If taxpayers later determined that they had provided inaccurate information in connection with a TETR claim, they were required to file an amended income tax, IRS Form 1040X. The filing of a Form 1040X stating that the taxpayer had erroneously claimed the TETR would cause the IRS to demand payment from the taxpayer of any TETR that had been paid.

THE CONSPIRATORS

7. Defendant PATRICIA FOUNTAIN was an employee of the IRS. As an employee of the IRS, defendant PATRICIA FOUNTAIN had a duty to refrain from the use of public office for private gain and to refrain from soliciting or accepting any item of monetary value, including bribes, kickbacks, and other benefits, with the intent to be influenced, from any person seeking official action from her or whose interests may be affected by the performance or nonperformance of her duties.

8. The IRS entrusted defendant PATRICIA FOUNTAIN with a variety of duties, including sending disallowance letters to taxpayers whose TETR claims were not properly calculated or lacked supporting documentation. Defendant FOUNTAIN received from the IRS training on the TETR, including instructions on how to assist taxpayers with inquiries regarding the TETR (such as whether a taxpayer's originally filed income tax return had claimed the TETR). Through her employment with the IRS, FOUNTAIN learned that a taxpayer could only receive a TETR refund for the standard amount between \$30 and \$60 or for federal excise taxes actually paid by the taxpayer. FOUNTAIN was told that TETR claims which requested a refund in excess of a certain amount, known to the grand jury, would increase the likelihood of an IRS audit or investigation.

9. Defendants PATRICIA FOUNTAIN and LARRY ISHMAEL, both residents of Philadelphia, filed joint federal income tax returns in tax year 2005. For subsequent tax years, defendant FOUNTAIN filed federal tax returns listing herself as "Head of Household" and defendant ISHMAEL as a dependent. FOUNTAIN and ISHMAEL shared a residence, money, and assets.

10. Person # 1 and Person # 2, known to the grand jury, were residents of Philadelphia who engaged in the practice of causing to be filed false and fraudulent income tax returns requesting refunds of federal taxes that had never been paid.

THE CONSPIRACY

11. From in or about November 2006 to at least May 27, 2009, in the Eastern District of Pennsylvania and elsewhere, defendants,

PATRICIA FOUNTAIN and LARRY ISHMAEL

knowingly, intentionally, and voluntarily conspired and agreed together, and with others known and unknown to the grand jury, to defraud the United States and the IRS, an agency of the United States, by obtaining and aiding to obtain the payment or allowance of false, fictitious and fraudulent claims, that is tax returns, to the IRS.

MANNER AND MEANS

It was part of the conspiracy that:

12. Defendants PATRICIA FOUNTAIN and LARRY ISHMAEL agreed to participate in, and did participate in, a fraudulent scheme to obtain tax refunds from the IRS by filing false, fraudulent, and fictitious federal income tax returns that claimed the TETR.

13. In order to execute the fraudulent scheme, defendant PATRICIA FOUNTAIN shared with defendant LARRY ISHMAEL knowledge about the TETR that she had learned through her employment with the IRS.

14. In order to execute the fraudulent scheme, defendant PATRICIA FOUNTAIN solicited the participation of individuals (“the taxpayers”) who were directly or indirectly affiliated with N.W., a person known to the grand jury. Defendant FOUNTAIN

directed defendant LARRY ISHMAEL and N.W. to interact with the taxpayers on her behalf.

- a. Upon receipt of a taxpayer's personal identifying information, including name and social security number, defendant FOUNTAIN prepared and caused to be prepared, and filed and caused to be filed with the IRS, false federal income tax returns claiming a TETR to which the taxpayer was not entitled.
- b. Defendant FOUNTAIN directed that, upon receipt of a refund check from the United States Treasury, each taxpayer deduct a \$400 fee, to be collected by defendant ISHMAEL or N.W.
- c. Defendant FOUNTAIN used the taxpayers' personal information to determine whether and when each of the taxpayers had been issued refunds.
- d. Defendant FOUNTAIN warned that she would use her status as an IRS employee to "red flag" any taxpayer who received a refund check but failed to pay the \$400 fee.

15. In order to execute the fraudulent scheme, defendant LARRY ISHMAEL solicited the participation in the conspiracy of acquaintances from West Philadelphia ("the co-conspirators"), including Person #1 and Person #2.

- a. The co-conspirators assisted defendant ISHMAEL in obtaining personal identifying information of third parties and then causing to be filed with the IRS false federal income tax returns claiming TETR to which the third parties were not entitled, in return for a

portion of the proceeds.

- b. Defendant ISHMAEL shared with Person #1 and Person #2 knowledge about the TETR that defendant PATRICIA FOUNTAIN had learned through her employment with the IRS.

16. In order to execute the fraudulent scheme, defendants PATRICIA FOUNTAIN and LARRY ISHMAEL prepared and caused to be prepared, and filed and caused to be filed with the IRS, their own respective 2006 false federal income tax returns claiming the TETR, to which they were not entitled.

17. In order to evade detection by the United States, defendants PATRICIA FOUNTAIN and LARRY ISHMAEL agreed to present and cause to be presented only individual false tax returns which claimed a TETR below the amount that defendant FOUNTAIN had been told would increase the likelihood of an IRS audit or investigation.

18. In order to evade detection by the United States, defendants PATRICIA FOUNTAIN and LARRY ISHMAEL directed that the IRS send the refunds, other than those of defendants FOUNTAIN and ISHMAEL, to third parties via mail or direct deposit.

19. In order to evade detection by the United States, defendants PATRICIA FOUNTAIN and LARRY ISHMAEL directed that the taxpayers, the co-conspirators, and other participants in the fraudulent scheme provide payments to defendants FOUNTAIN and ISHMAEL in cash.

20. In order to evade detection by the United States, defendants PATRICIA FOUNTAIN and LARRY ISHMAEL did not deposit proceeds or profits of the fraudulent scheme into their bank accounts but rather pooled the cash for their personal use.

OVERT ACTS

In furtherance of the conspiracy, the defendants, and others known and unknown to the grand jury, committed the following overt acts in the Eastern District of Pennsylvania and elsewhere:

1. On or about the following dates, defendant PATRICIA FOUNTAIN prepared and caused to be prepared and filed and caused to be filed with the IRS what purported to be federal income tax returns for the tax year 2006, for the individuals whose initials are set forth below, wherein claims for tax refunds for the amounts listed below were made, with knowledge that such claims were false, fictitious, and fraudulent, the filing of each claim being a separate overt act:

#	TAXPAYER	FILING DATE	TETR AMOUNT CLAIMED
a.	P.F.	2/20/07	\$1,379
b.	N.W.	3/13/2007	\$1,379
c.	L.I.	3/13/2007	\$894
d.	C.W.	4/6/2007	\$894
e.	K.H.	4/7/2007	\$1,418
f.	J.W.	4/9/2007	\$1,315
g.	H.W.	4/9/2007	\$1,301
h.	M.W.	4/9/2007	\$1,418
i.	T.S.	4/10/2007	\$1,418
j.	L.H.	4/17/2007	\$1,418
k.	R.W.	4/17/2007	\$1,418
l.	K.H.	4/17/2007	\$1,418
m.	K.H.J.	4/18/2007	\$1,418

#	TAXPAYER	FILING DATE	TETR AMOUNT CLAIMED
n.	N.H.	4/18/2007	\$1,418
o.	D.W.	4/23/2007	\$1,418
p.	T.R.	4/26/2007	\$1,418
q.	D.A.	5/1/2007	\$1,418
r.	D.R.	5/3/2007	\$1,428
s.	J.H.	5/8/2007	\$1,418
t.	A.H.	5/17/2007	\$1,418
u	R.H.H.	6/26/2007	\$1,408

2. On or about March 13, 2007, defendant LARRY ISHMAEL prepared and caused to be prepared and filed a false tax return claiming the TETR.

3. On diverse dates between approximately April 2007 and August 2007, defendants PATRICIA FOUNTAIN and LARRY ISHMAEL collected cash fees from certain taxpayers for whom a false TETR claim was filed.

4. On the following dates, defendant PATRICIA FOUNTAIN prepared and caused to be prepared, and filed and caused to be filed Forms 1040X, reversing the refunds for the following taxpayers, known to the grand jury, whom defendant FOUNTAIN determined had failed to pay the \$400 fee.

REVERSAL DATE	TAXPAYER'S INITIALS	REVERSAL AMOUNT
7/16/2007	L.H.	\$1,418
7/23/2007	N.H.	\$1,418
7/23/2007	K.H.	\$1,418
7/23/2007	A.H.	\$1,596
7/27/2007	K.H.J.	\$1,418

REVERSAL DATE	TAXPAYER'S INITIALS	REVERSAL AMOUNT
7/30/2007	D.A.	\$1,418
8/20/2007	J.W.	\$1,315
11/12/2007	T.S.	\$1,418

5. On or about May 27, 2009, defendant PATRICIA FOUNTAIN financed a Mercedes Benz R350, Pennsylvania Tag Number HFT9759, VIN 4JGCB65E57A046034, for the mutual use of defendant FOUNTAIN and defendant LARRY ISHMAEL, and, in order to conceal the financial transaction from the United States, structured the \$11,299 down payment as follows: \$9,900 paid in cash and \$1,399 charged to a Mastercard.

In violation of Title 18, United States Code, Section 286.

COUNTS TWO THROUGH FOURTEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 10 and 12 through 20 and Overt Acts 1 through 5 of Count One are incorporated here.

2. On or about the dates listed in the chart below, in the Eastern District of Pennsylvania and elsewhere, defendant

PATRICIA FOUNTAIN

knowingly made and presented, and caused to be made and presented, to the IRS, an agency of the Department of the Treasury, claims against the United States for payment, which she knew to be false, fictitious, or fraudulent, by preparing and causing to be prepared, and filing and causing to be filed, what purported to be federal income tax returns for the tax year 2006, for the individuals whose initials are set forth below, wherein claims for tax refunds for the amounts listed below were made, with knowledge that such claims were false, fictitious, and fraudulent.

COUNT	TAXPAYER	FILING DATE	TETR AMOUNT CLAIMED
2	T.S.	4/10/2007	\$1,418
3	L.H.	4/17/2007	\$1,418
4	R.W.	4/17/2007	\$1,418
5	K.H.	4/17/2007	\$1,418
6	K.H.J.	4/18/2007	\$1,418
7	N.H.	4/18/2007	\$1,418
8	D.W.	4/23/2007	\$1,418
9	T.R.	4/26/2007	\$1,418
10	D.A.	5/1/2007	\$1,418
11	D.R.	5/3/2007	\$1,428

COUNT	TAXPAYER	FILING DATE	TETR AMOUNT CLAIMED
12	J.H.	5/8/2007	\$1,418
13	A.H.	5/17/2007	\$1,418
14	R.H.H.	6/26/2007	\$1,408

All in violation of Title 18, United States Code, Section 287.

COUNT FIFTEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 10 and 12 through 20 and Overt Acts 1 through 5 of Count One are incorporated here.
2. On or about February 20, 2007, in the Eastern District of Pennsylvania, and elsewhere, defendant

PATRICIA FOUNTAIN

willfully made and subscribed to a United States income tax return, Form 1040X along with the accompanying forms, for the tax year 2006, which was verified by a written declaration that it was made under the penalty of perjury and filed with the Director, Internal Revenue Service, in Philadelphia, Pennsylvania, which tax return defendant FOUNTAIN did not believe to be true and correct as to every material matter, in that the return claimed on Line 15 that defendant Fountain was due a TETR of \$1,379, when, as defendant FOUNTAIN well knew, the TETR claimed was grossly inflated and defendant FOUNTAIN was not entitled to claim a TETR of \$1,379.

In violation of Title 26, United States Code, Section 7206(1).

COUNT SIXTEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 10 and 12 through 20 and Overt Acts 1 through 5 of Count One are incorporated here.
2. On or about March 13, 2007, in the Eastern District of Pennsylvania and elsewhere, defendants

**PATRICIA FOUNTAIN and
LARRY ISHMAEL**

willfully aided and assisted in, procured, counseled, and advised the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040 along with the accompanying forms, of defendant ISHMAEL for the tax year 2006, which was false and fraudulent as to a material matter, in that the return claimed on Line 71 that defendant ISHMAEL was due a TETR of \$894, when in fact, as defendants FOUNTAIN and ISHMAEL well knew, the TETR claimed on defendant ISHMAEL's tax return was grossly inflated and defendant ISHMAEL was not entitled to a TETR of \$894.

In violation of Title 26, United States Code, Section 7206(2).

COUNT SEVENTEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 10 and 12 through 20 and Overt Acts 1 through 5 of Count One are incorporated here.

2. From in or about November 2006 through in or about December 2007, in the Eastern District of Pennsylvania, defendant

PATRICIA FOUNTAIN

obstructed, delayed and affected commerce, and the movement of articles and commodities in commerce, and attempted to do so, by extortion, in that defendant PATRICIA FOUNTAIN obtained and attempted to obtain money from D.A., which was not due defendant PATRICIA FOUNTAIN or her office, in her capacity as an IRS employee, under color of official right.

In violation of Title 18, United States Code, Section 1951(a).

COUNT EIGHTEEN

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 10 and 12 through 20 and Overt Acts 1 through 5 of Count One are incorporated here.

2. Mercedes Benz of Fort Washington, Pennsylvania, was a financial institution as defined in Title 31, United States Code, Section 5312(a)(2)(T), and was thus required, under Title 31, United States Code, Section 5313(a) and the regulations promulgated thereunder, to file with the IRS Currency Transaction Reports (“CTRs”) for currency transactions in excess of \$10,000. Mercedes Benz of Fort Washington was further required under Title 31, United States Code, Section 5331, to report to the Financial Crimes Enforcement Network any business transaction in which it received more than \$10,000 in currency

3. On or about May 27, 2009, in the Eastern District of Pennsylvania, defendant

PATRICIA FOUNTAIN

for the purpose of evading the reporting requirements of Title 31, United States Code, Section 5313(a) and the regulations promulgated thereunder, knowingly caused and attempted to cause a domestic financial institution to fail to file CTRs for currency transactions in excess of \$10,000, by structuring a down payment of \$11,299 for a financed Mercedes Benz R350 as follows: \$9,900 paid in cash and \$1,399 charged to a Mastercard.

In violation of Title 31, United States Code, Section 5324(a)(1).

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violation of Title 31, United States Code, Section 5324(a)(1), set forth in this indictment, defendant

PATRICIA FOUNTAIN

shall forfeit to the United States of America any and all property involved in such offense and any property traceable to such property, including but not limited to a Mercedes Benz R350, Pennsylvania Tag Number HFT9759, VIN 4JGCB65E57A046034.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendants:

- (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;

it is the intent of the United States, pursuant to Title 31, United States Code, Sections 5317(c)(1)(A) and (B), incorporating Title 21, United States Code, Section 853(p), to seek

forfeiture of any other property of the defendants up to the value of the property subject to forfeiture.

All pursuant to Title 31, United States Code, Section 5317(c)(1).

A TRUE BILL

GRAND JURY FOREPERSON

**ZANE DAVID MEMEGER
UNITED STATES ATTORNEY**