

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 17-80069-CR-MARRA/MATTHEWMAN

18 U.S.C. § 2
18 U.S.C. § 641
18 U.S.C. § 1957
26 U.S.C. § 7206(1)
26 U.S.C. § 7212(a)



UNITED STATES OF AMERICA,

v.

DAVID R. ANDRE,

Defendant.

INDICTMENT

THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this Indictment or as otherwise indicated herein:

1. Since in or around August 2011, the defendant, **DAVID R. ANDRE**, resided in Boynton Beach, Florida, in Palm Beach County, in the Southern District of Florida.
2. Prior to in or around August 2011, **DAVID R. ANDRE** resided in New York.
3. From in or around 2001 to in or around 2014, **DAVID R. ANDRE** earned an hourly wage as a part-time Freight Team Associate for Home Depot in New York and Florida.
4. The Internal Revenue Service (“IRS”) was an agency of the United States Department of the Treasury responsible for administering the tax laws of the United States and collecting taxes owed to the United States.

5. An Individual Retirement Arrangement (“IRA”) was a tax favored personal arrangement which allows an individual to set aside money for retirement.

6. An IRS Form 1099-R, “Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, Etc.,” was used to report income from the distribution of retirement benefits such as pensions, annuities, or other retirement plans.

COUNT ONE

(Corrupt Endeavor to Impede the Due Administration of the Internal Revenue Laws)

7. The factual allegations contained in Paragraphs 1 through 6 of the Introduction of this Indictment are re-alleged and incorporated herein.

8. From on or about February 6, 2010, and continuing to at least on or about January 27, 2015, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

DAVID R. ANDRE

did corruptly endeavor to obstruct and impede the due administration of the internal revenue laws by committing the following acts, among others:

- a. Filing, and causing to be filed, with the IRS, false U.S. Individual Income Tax Returns, Forms 1040, and false Amended U.S. Individual Income Tax Returns, Forms 1040X, that reported false income and federal withholdings, and which fraudulently claimed tax refunds to which the defendant was not entitled;
- b. Filing, and causing to be filed, with the IRS, a false Installment Agreement Request, Form 9465-FS; and
- c. Making false statements to IRS agents to conceal his acts.

Corrupt Acts

Among the corrupt acts taken by the defendant, **DAVID R. ANDRE**, were the following:

9. On or about February 6, 2010, **DAVID R. ANDRE** filed, and caused to be filed, with the IRS, a false U.S. Individual Income Tax Return, Form 1040, for tax year 2009 that included false Form 1099-R information and fraudulently claimed a refund of \$15,128.

10. On or about April 7, 2010, **DAVID R. ANDRE** filed, and caused to be filed, with the IRS, a false Amended U.S. Individual Income Tax Return, Form 1040X, for tax year 2009 that included false Form 1099-R information and fraudulently claimed a refund of \$28,140.

11. On or about January 16, 2011, **DAVID R. ANDRE** filed, and caused to be filed, with the IRS, a false U.S. Individual Income Tax Return, Form 1040, for tax year 2010 that included false Form 1099-R information and fraudulently claimed a refund of \$266,608.

12. On or about April 11, 2011, **DAVID R. ANDRE** filed, and caused to be filed, with the IRS, a false Amended U.S. Individual Income Tax Return, Form 1040X, for tax year 2010 and fraudulently claimed a refund of \$46,171.

13. On or about January 27, 2012, **DAVID R. ANDRE** filed, and caused to be filed, with the IRS, a false U.S. Individual Income Tax Return, Form 1040, for tax year 2011 that included false Form 1099-R information and fraudulently claimed a refund of \$143,833.

14. On or about January 25, 2013, **DAVID R. ANDRE** filed, and caused to be filed, with the IRS, a false U.S. Individual Income Tax Return, Form 1040, for tax year 2012 that included false Form 1099-R information and fraudulently claimed a refund of \$1,212,270.

15. On or about February 11, 2013, **DAVID R. ANDRE** filed, and caused to be filed, with the IRS, a false Installment Agreement Request, Form 9465-FS, that falsely stated on Line 8 that he was making a payment of \$1,212,270 to the IRS with his tax return or notice.

16. On or about February 4, 2014, **DAVID R. ANDRE** filed, and caused to be filed, with the IRS, a false U.S. Individual Income Tax Return, Form 1040, for tax year 2013 that

included false Form W-2 information and fraudulently claimed a refund of \$1,726,798.

17. On or about January 27, 2015, **DAVID R. ANDRE** filed, and caused to be filed, with the IRS, a false U.S. Individual Income Tax Return, Form 1040, for tax year 2014 that included false Form 1099-R information and fraudulently claimed a refund of \$2,258,966.

18. On or about November 24, 2015, during an interview with IRS Special Agents, **DAVID R. ANDRE** falsely stated that, from 2009 to 2014, he did not recall receiving any large refunds from the IRS into his personal bank account, when he then and there knew that he actually received a total of at least \$463,920 in refunds from the IRS, which were deposited into his personal bank account.

19. On or about November 30, 2015, during an interview with IRS Special Agents, **DAVID R. ANDRE** falsely stated that he paid \$235,000 for the residential property he lived in on Manor Forest Lane in Boynton Beach, Florida, with proceeds from his late father's estate, when he then and there knew that he paid the entire purchase price of the residence using fraudulently obtained tax refunds.

20. On or about November 30, 2015, during an interview with IRS Special Agents, **DAVID R. ANDRE** falsely stated that he had not filed a tax return since 2008.

All in violation of Title 26, United States Code, Section 7212(a).

COUNTS TWO THROUGH FIVE
(Making and Subscribing a False Tax Return)

21. The factual allegations contained in Paragraphs 1 through 6 of the Introduction of this Indictment are re-alleged and incorporated herein.

22. On or about the dates listed below, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

DAVID R. ANDRE

did willfully make and subscribe U.S. Individual Income Tax Returns, Forms 1040, listed below, which were verified by a written declaration that they were made under the penalties of perjury and which the defendant, **DAVID R. ANDRE**, did not believe to be true and correct as to every material matter. These individual income tax returns, which were filed with the IRS, reported the materially false items listed below and stated the defendant, **DAVID R. ANDRE**, was entitled to tax refunds in the amounts listed below, whereas, as he then and there knew and believed, these items were false and he was not entitled to said tax refunds.

Count	Calendar Year	Filing Date	Materially False Items	Refund Claimed
2	2011	01/27/2012	1. Line 16b: pensions and annuities taxable amount. 2. Line 62: federal income tax withheld from Forms W-2 and 1099.	\$143,833
3	2012	01/25/2013	1. Line 16b: pensions and annuities taxable amount. 2. Line 62: federal income tax withheld from Forms W-2 and 1099.	\$1,212,270
4	2013	02/04/2014	1. Line 7: wages, salaries, tips, etc. 2. Line 62: federal income tax withheld from Forms W-2 and 1099.	\$1,726,798
5	2014	01/27/2015	1. Line 15b: IRA distributions taxable amount. 2. Line 64: federal income tax withheld from Forms W-2 and 1099.	\$2,258,966

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

COUNT SIX
(Theft of Government Money)

23. The factual allegations contained in Paragraphs 1 through 6 of the Introduction of this Indictment are re-alleged and incorporated herein.

24. On or about May 9, 2012, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

DAVID R. ANDRE

did willfully and knowingly steal and purloin money of the United States, that is, funds administered by the Department of the Treasury in the form of a federal income tax refund in the amount of \$137,582.70.

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

COUNTS SEVEN THROUGH NINE
(Engaging in Prohibited Monetary Transactions)

25. The factual allegations contained in Paragraphs 1 through 6 of the Introduction of this Indictment are re-alleged and incorporated herein.

26. On or about the dates set forth below, in Palm Beach County, Florida, within the Southern District of Florida, and elsewhere, the defendant,

DAVID R. ANDRE

did knowingly engage, and attempt to engage, in the following monetary transactions listed below by, through, or to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, that is the transfer and exchange of funds and monetary instruments, such property having been derived from a specified unlawful activity, that is, theft of government money, in violation of Title 18, United States Code, Section 641, as alleged in Count Six of this Indictment:

Count	Date	Monetary Transaction	Amount
7	05/09/2012	Purchase of 2009 BMW 750 automobile using Cashier's Check #1469503838 made payable to OFFLEASE ONLY.	\$50,290.14
8	05/09/2012	Electronic transfer from Chase checking account ending in 9544 to Chase savings account ending in 3571.	\$70,000.00
9	05/16/2012	Purchase of 2011 Jeep Grand Cherokee automobile using Cashier's Check #1469503864 made payable to OFFLEASE ONLY.	\$23,790.14

In violation of Title 18, United States Code, Sections 1957 and 2.

CRIMINAL FORFEITURE NOTICE

27. Upon conviction of the violation alleged in Count 6 of this Indictment, defendant **DAVID R. ANDRE** shall forfeit to the United States all property, real and personal, which constitutes or is derived from proceeds traceable to a violation of the aforementioned offenses, including, but not limited to at least, the following:

- a. A money judgment in the amount of \$137,582.70 in United States currency.
- b. One (1) 2011 Silver Jeep Grand Cherokee, VIN 1J4RS4GG8BC577463.

Pursuant to Title 28, United States Code, Section 2461, Title 18, United States Code, Section 981(a)(1)(C), and Title 21, United States Code, Section 853.

28. If the property described above as being subject to forfeiture, 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 person;
- 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 subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

All pursuant to Title 28, United States Code, Section 2461, Title 18, United States Code, Section 981(a)(1)(C), and Title 21, United State Code, Section 853.

29. Upon conviction of any of the violations alleged in Counts 7, 8, and 9, of this Indictment, defendant **DAVID R. ANDRE** shall forfeit to the United States any property, real or personal, involved in such offense, and any property traceable to such property, including but not limited to at least, the following:

- a. A money judgment in the amount of \$120,290.14 in United States currency.
- b. One (1) 2011 Silver Jeep Grand Cherokee VIN 1J4RS4GG8BC577463.

Pursuant to Title 18, United States Code, Section 982(a)(1).

30. If any of the property described in the forfeiture section of this Indictment, 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,

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

All pursuant to Title 18, United States Code, Section 982, and Title 21, United States Code, Section 853.

A TRUE BILL

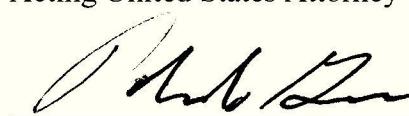
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BENJAMIN G. GREENBERG
Acting United States Attorney



Rolando Garcia
Assistant United States Attorney

UNITED STATES OF AMERICA

vs.

DAVID R. ANDRE,

Defendant.

CASE NO. _____

CERTIFICATE OF TRIAL ATTORNEY*

Superseding Case Information:

Court Division: (Select One)

Miami _____ Key West _____
FTL _____ WPB X FTP _____New Defendant(s)
Number of New Defendants
Total number of countsYES X
1
9

NO _____

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
3. Interpreter: (Yes or No) No
List language and/or dialect N/A
4. This case will take 5 days for the parties to try.
5. Please check appropriate category and type of offense listed below:
(Check only one) (Check only one)

I	0 to 5 days	<u>X</u>	Petty
II	6 to 10 days	_____	Minor
III	11 to 20 days	_____	Misdem.
IV	21 to 60 days	_____	Felony
V	61 days and over	_____	<u>X</u>

6. Has this case been previously filed in this District Court? (Yes or No) No
If yes:

Judge: N/A Case No. N/A

(Attach copy of dispositive order)

Has a complaint been filed in this matter?

If yes: Magistrate Case No. _____

Related Miscellaneous numbers:

Defendant(s) in federal custody as of

Defendant(s) in state custody as of

Rule 20 from the

District of _____

(Yes or No) NoN/AIs this a potential death penalty case? (Yes or No) Yes X No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes X No

8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? Yes X No



DANIEL T. McGRAW
TRIAL ATTORNEY, U.S. Dept. of Justice, Tax Division
Florida Bar/Court No. A5502311

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: DAVID R. ANDRE

Case No: _____

Count #: 1

Corrupt Endeavor to Impede the Due Administration of the Internal Revenue Laws

Title 26, United States Code, Section 7212(a)

*** Max. Penalty:** 3 years imprisonment; \$250,000 Fine; 1 year Supervised Release (Class E)

Counts #: 2, 3, 4, 5

Making and Subscribing a False Tax Return

Title 26, United States Code, Section 7206(1)

*** Max. Penalty:** 3 years imprisonment; \$250,000 Fine; 1 year Supervised Release (Class E)

Count #: 6

Theft of Government Money

Title 18, United States Code, Section 641

*** Max. Penalty:** 10 years imprisonment; \$250,000 Fine; 3 years Supervised Release (Class C)

Counts #: 7, 8, 9

Engaging in Prohibited Monetary Transactions (Money Laundering)

Title 18, United States Code, Section 1957

*** Max. Penalty:** 10 years imprisonment; \$250,000 Fine; 3 years Supervised Release (Class C)

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**