

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Criminal Case No. 18-cr-196-RM

UNITED STATES OF AMERICA,

Plaintiff,

v.

**MARLENE SEO,
aka MARLEN SEO,**

Defendant.

**INDICTMENT
26 U.S.C. § 7202; 26 U.S.C. § 7206(1)**

The Grand Jury charges:

Introductory Allegations

At all times relevant to this indictment,

1. The defendant, MARLENE SEO, also known as MARLEN SEO, (hereinafter “SEO” or “defendant”) resided in Arvada, Colorado in the District of Colorado.
2. National Martial Arts Academy, Inc., also doing business as Seo’s Martial Arts Academy (hereinafter “National Martial Arts Academy”), was a corporation doing business in the District of Colorado. National Martial Arts Academy was in the business of teaching martial arts.
3. SEO was the sole owner of National Martial Arts Academy. SEO exercised control over National Martial Arts Academy’s business affairs, including, but not

limited to, the following: approving payments by the corporation, controlling National Martial Arts Academy's bank accounts, handling National Martial Arts Academy's payroll and bookkeeping, and signing and filing employment and income tax returns for National Martial Arts Academy.

4. Educational Funding Company (hereinafter "EFC") was a third party vendor engaged by National Martial Arts Academy to collect student tuition on its behalf.
5. From 2011 through 2013, EFC deposited tuition payments into three accounts at Chase Bank that SEO held in her own name (hereinafter "personal accounts") ending in xxxx-9336, xxxx-5522, and xxxx-4652. SEO did not disclose the existence of these three personal accounts or the amounts and sources of the funds deposited into these accounts to National Martial Arts Academy's bookkeepers, accountants or return preparer.
6. In 2014, SEO opened a business bank account ending in xxxx-4485 in the name of National Martial Arts Academy at U.S. Bank. During the same year, EFC deposited tuition payments into this account. SEO did not disclose this account or the amounts and sources of the funds deposited into this account to National Martial Arts Academy's bookkeepers, accountants or return preparer.
7. The Internal Revenue Service (hereinafter "IRS") was an agency of the United States within the Department of the Treasury of the United States and was responsible for enforcing and administering the tax laws of the United States.
8. Employers are required to withhold, truthfully account for, and pay over to the IRS a variety of taxes from employee wages, collectively referred to as "payroll

taxes.” These taxes include: Federal income tax withholding (“withholding taxes”) and Federal Insurance Contribution Act taxes (“FICA taxes”), as more particularly described below:

- a. Withholding taxes: In general, an employer is required to deduct and withhold federal income tax on the amount of wages that are actually or constructively paid to its employees, and pay over those withholding taxes to the IRS; and
 - b. FICA taxes: The FICA tax is comprised of two elements: old-age, survivor and disability insurance, commonly referred to as “Social Security,” and health insurance, commonly referred to as “Medicare.” Social Security taxes are used to fund retirement and disability benefits, while Medicare taxes are used to provide health and medical benefits for the aged and disabled. An employer is required to deduct and withhold FICA taxes on the amount of wages that are actually or constructively paid to its employees, and pay over those FICA taxes to the IRS.
9. Employers use an Employer’s Quarterly Federal Tax Return, Form 941, to report to the IRS the wages, tips, and other compensation paid to employees, the total amount of federal income tax withheld, the total amount of Social Security and Medicare taxes withheld, and the total tax deposits.
 10. A person is responsible for collecting, accounting for, and paying over payroll taxes if he or she has the authority required to exercise significant control over

the employer's financial affairs, regardless of whether the individual exercised such control in fact.

11. As a person who exercised control over National Martial Arts Academy's financial affairs, SEO was a responsible person and had the corporate responsibility to collect, truthfully account for, and pay over National Martial Arts Academy's payroll taxes to the IRS.
12. From in or about January 2012 through in or about December 2014, SEO used corporate funds to make thousands of dollars of expenditures for her and her family's personal benefit while, at the same time, failing to pay over to the IRS payroll taxes withheld from the paychecks of National Martial Arts Academy's employees.

COUNTS 1 – 9

(26 U.S.C. § 7202 – Willful Failure to Pay Over Taxes Due)

13. The Grand Jury incorporates and realleges each of the Introductory Allegations contained in paragraphs 1 through 12.
14. From in or about January 2012, through in or about June 2014, SEO withheld payroll taxes from the wages paid to employees of National Martial Arts Academy and reported those taxes on Forms 941 that were filed with the IRS, but failed to make full payment of payroll taxes due to the IRS.
15. On or about the due dates listed below, in the District of Colorado, the defendant, MARLENE SEO aka MARLEN SEO, did willfully fail to pay over to the IRS all the payroll taxes due and owing to the United States of America on behalf of the

employees of National Martial Arts Academy, in the amounts and for each quarter listed below in Counts 1 through 9, respectively:

Count	Quarter and year	Quarterly Due Date	Amount Required To Be Collected, Accounted For, And Paid Over
1.	1st Quarter of 2012	04/30/2012	\$6,866.03
2.	2nd Quarter of 2012	07/31/2012	\$7,693.17
3.	4th Quarter of 2012	01/31/2013	\$10,166.68
4.	1st Quarter of 2013	04/30/2013	\$7,083.51
5.	2nd Quarter of 2013	07/31/2013	\$8,223.57
6.	3rd Quarter of 2013	10/31/2013	\$9,088.44
7.	4th Quarter of 2013	01/31/2014	\$12,879.12
8.	1st Quarter of 2014	04/30/2014	\$8,005.47
9.	2nd Quarter of 2014	07/31/2014	\$8,464.13

Each of these counts is a separate violation of Title 26, United States Code, Section 7202.

COUNTS 10 – 12

(26 U.S.C. § 7206(1) – Making and Subscribing a False Tax Return)

16. The grand jury incorporates and realleges each of the Introductory Allegations contained in paragraphs 1 through 7.

17. A U.S. Corporation Income Tax Return, Form 1120, is used for domestic corporations to report their income, gains, losses, deductions, credits and tax liabilities.
18. On or about October 29, 2014, in the District of Colorado, the defendant, MARLENE SEO aka MARLEN SEO, did willfully make and subscribe corporate income tax returns, Forms 1120, for National Martial Arts Academy for the calendar years listed below, each of which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, and which she did not believe to be true and correct as to every material matter. The returns were false as to material matters in that they understated gross receipts or sales, as follows:

Count	Calendar Year	Reported Gross Receipts	Approx. Corrected Gross Receipts
10.	2011	\$805,319 (Line 1b)	\$1,002,302
11.	2012	\$927,918 (Line 1a)	\$1,126,808
12.	2013	\$999,849 (Line 1a)	\$1,254,008

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

TRUE BILL:

Ink signature on file in Clerk's Office
FOREPERSON

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General
Tax Division

By: s/ Anahi Cortada

ANAHI CORTADA
Trial Attorney
U.S. Dept. of Justice, Tax Division
P.O. Box 972
Tel: (202) 616-2368
Fax: (202) 514-9623
Anahi.Cortada@usdoj.gov

LISA L. BELLAMY
Trial Attorney
U.S. Dept. of Justice, Tax Division
P.O. Box 972
Tel: (202) 307-6416
Fax: (202) 514-9623
Lisa.L.Bellamy@usdoj.gov

DEFENDANT: Marlene Seo aka Marlen Seo

YEAR OF BIRTH: 1972

ADDRESS: Arvada, Colorado

COMPLAINT FILED? YES NO

IF YES, PROVIDE MAGISTRATE CASE NUMBER:

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT? YES NO

OFFENSES:

Counts 1-9: 26 U.S.C. § 7202 (Willful failure to pay over tax)

Counts 10-12: 26 U.S.C. § 7206(1) (Filing false tax returns)

LOCATION OF OFFENSE

(County and State): Jefferson County, Colorado

PENALTY:

Counts 1-9: 26 U.S.C. § 7202 – Maximum of 5 years of imprisonment, or \$250,000 fine, or both

Counts 10-12: 26 U.S.C. § 7206(1) – Maximum of 3 years of imprisonment, or \$250,000 fine, or both

AGENT/DEPUTY: IRS Special Agent Jacob Rice

AUTHORIZED BY: Tax Division, United States Department of Justice

ESTIMATED TIME OF TRIAL:

five days or less

over five days

other

THE GOVERNMENT

Will seek detention in this case based on 18 U.S.C. § 3142(f)(1).

Will not seek detention.

The statutory presumption of detention [is / is not] applicable to this defendant.

OCDETF case: Yes No