

1 MELINDA HAAG (CABN 132612)
United States Attorney

2013 OCT 3 12

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

10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,

Case No. **CR 13 662**

12 Plaintiff, ,

RS
VIOLATIONS: 18 U.S.C. § 1349 -
Conspiracy; 18 U.S.C. § 1341 - Mail Fraud;
18 U.S.C. § 2(b), Aiding and Abetting; 18
U.S.C. § 1028A(a)(1) and (c)(5) - Aggravated
Identity Theft; 18 U.S.C. § 981(a)(1)(C) and
28 U.S.C. §2461(c) - Scheme to Commit Mail
Fraud

13 v.

14 CLIFFORD DALE BERCOVICH, and
15 HOWARD WEBBER,

16 Defendants.

SAN FRANCISCO VENUE

17
18
19 INDICTMENT

20 The Grand Jury charges:

21 At all times relevant to this Indictment:

22 INTRODUCTORY ALLEGATIONS

23 1. CLIFFORD DALE BERCOVICH (hereinafter BERCOVICH), resided at 74 Heritage
24 Drive, San Rafael, California, in Marin County.

25 2. HOWARD WEBBER (hereinafter WEBBER), resided in Marin County, California, or
26 Milwaukee, Wisconsin.

27 3. A "means of identification" includes any name or number that may be used, alone or in
28 conjunction with other information, to identify a specific individual, including a name, address,

1 telephone number, Social Security number, and date of birth.

2 4. The Earned Income Credit and the Making Work Pay Credit are refundable federal
3 income tax credits.

4 5. The Internal Revenue Service ("IRS") is an agency of the United States within the
5 Department of the Treasury of the United States and is responsible for enforcing and administering the
6 tax laws of the United States.

7 6. The filed federal income tax returns, identified below, were mailed to the Internal
8 Revenue Service in Fresno, California.

9 7. Introductory Allegations paragraphs 1 through 6 are alleged in each of the following
10 Counts of the Indictment as though fully set forth therein.

11 COUNT ONE: (18 U.S.C. § 1349 - Conspiracy)

12 8. Beginning in at least June 2010 and continuing until in or about January 2012, in the
13 Northern District of California and elsewhere, the defendants,

14 CLIFFORD DALE BERCOVICH and
15 HOWARD WEBBER,

16 and others known and unknown to the Grand Jury, did knowingly conspire and agree together and with
17 other persons to commit offenses against the United States, namely (a) mail fraud, in violation of Title
18 18, United States Code, Sections 1349 and 1341, and (b) wire fraud, in violation of Title 18, United
19 States Code, Sections 1349 and 1343.

20 The Scheme and Artifice to Defraud

21 9. In June 2010, WEBBER and BERCOVICH discussed preparing federal income tax
22 returns for prison inmates that claimed tax refunds based on the Earned Income Credit and/or Making
23 Work Pay Credit.

24 10. As part of the scheme, BERCOVICH created an information sheet for Inmate Assets
25 Recovery and Liquidation Services ("IARLS") that solicited personal identifying information from
26 prison inmates.

27 11. BERCOVICH used the information sheets with the inmates' personal information to
28 prepare and file false federal income tax returns. The tax returns reported fictitious figures for "wages,

1 salaries, and tips," that fraudulently inflated the Earned Income Credit and/or Making Work Pay Credit
2 claimed on the tax returns.

3 12. WEBBER obtained the personal information of prison inmates and transcribed the
4 information onto the sheet created by BERCOVICH. Thereafter, WEBBER, or another person assisting
5 WEBBER, transmitted the information sheets to BERCOVICH.

6 13. BERCOVICH and WEBBER recruited others to assist in obtaining completed
7 information sheets containing "means of identification" of inmates.

8 14. BERCOVICH paid each recruiter \$75 for a completed information sheet that resulted in a
9 tax refund.

10 15. BERCOVICH used the "means of identification" of inmates to prepare and file, using the
11 United States mail, false federal individual federal income tax returns, claiming fraudulent tax refunds.

12 16. On or about August 11, 2010, BERCOVICH opened P.O. Box 603, Kentfield, California,
13 and reported this P.O. Box address as the taxpayer address on the false federal income tax returns he
14 filed in the names of the actual inmates.

15 17. Tax refunds associated with the false federal income tax returns were mailed by the
16 Department of Treasury to P.O. Box 603, Kentfield, California.

17 18. BERCOVICH and WEBBER were the sole authorized users for P.O. Box 603, Kentfield,
18 California.

19 19. On or about October 22, 2010, BERCOVICH opened Wells Fargo bank account xxxx-
20 5270 in the name of Inmate Assets R and E Services Trust, which was used along with Wells Fargo
21 Bank account xxxx-6054, to deposit fraudulent tax refunds.

22 20. BERCOVICH was the sole signatory on Wells Fargo bank account xxxx-5270
23 and Wells Fargo Bank account xxxxxx6054.

24 21. After depositing any fraudulent refunds, BERCOVICH and WEBBER split the IARLS
25 fee of \$250 or 25% of the fraudulent refund for each corresponding false tax return that was filed with
26 the IRS.

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1 COUNTS TWO THROUGH THIRTEEN: (18 U.S.C. § 1341 and § 2(b) – Mail Fraud)

2 22. From in or about June 2010, through on or about January 3, 2012, in the Northern District
 3 of California and elsewhere, for the purpose of executing the scheme described above, defendants,

4 CLIFFORD DALE BERCOVICH and
 5 HOWARD WEBBER,

6 with the intent to defraud, devised or willfully participated in, with knowledge of its fraudulent nature,
 7 the above-described scheme and artifice to defraud and obtain money or property by materially false and
 8 fraudulent pretenses, representations and promises.

9 23. On or about the dates listed below, in the Northern District of California, for the purpose
 10 of executing or attempting to execute the above-described scheme and artifice to defraud and deprive,
 11 BERCOVICH knowingly caused to be delivered by mail, according to the direction thereon, and at the
 12 place at which it is directed to be delivered by the person to whom it is addressed, the federal income tax
 13 returns listed below.

Count	Mailing Date (on or about)	Description
2	November 8, 2011	2008 Federal Income Tax Return for J.T.
3	November 14, 2011	2009 Federal Income Tax Return for J.T.
4	November 14, 2011	2009 Federal Income Tax Return for P.O.
5	November 10, 2011	2008 Federal Income Tax Return for T.L.
6	October 20, 2011	2009 Federal Income Tax Return for T.L.
7	November 10, 2011	2009 Federal Income Tax Return for N.C.
8	November 16, 2011	2008 Federal Income Tax Return for L.C.
9	November 16, 2011	2009 Federal Income Tax Return for L.C.
10	December 15, 2011	2010 Federal Income Tax Return for L.C.

11	November 21, 2011	2008 Federal Income Tax Return for R.A.
12	November 16, 2011	2009 Federal Income Tax Return for R.A.
13	January 3, 2012	2010 Federal Income Tax Return for R.A.

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNTS FOURTEEN THROUGH TWENTY-FIVE: (18 U.S.C. § 1028A(a)(1) and (c)(5) - Aggravated Identity Theft)

24. On or about the dates identified below, within the Northern District of California, the defendant,

CLIFFORD DALE BERCOVICH,

during and in relation to a felony violation of Title 18, United States Code Section 1341, knowingly transferred, possessed, and used without lawful authority a means of identification of another person during and in relation to the offenses in this Indictment identified as related counts below, that is, he knowingly transferred, possessed, and used the names and Social Security numbers of actual persons, listed by their initials below, to commit mail fraud by attempting to obtain the fraudulent income tax refunds identified below:

Count	Date of Offense (on or about)	Taxpayer listed on return	Related Count
14	November 8, 2011	J.T.	2
15	November 14, 2011	J.T.	3
16	November 14, 2011	P.O.	4
17	November 10, 2011	T.L.	5
18	October 20, 2011	T.L.	6
19	November 10, 2011	N.C.	7
20	November 16, 2011	L.C.	8

21	November 16, 2011	L.C.	9
22	December 15, 2011	L.C.	10
23	November 21, 2011	R.A.	11
24	November 16, 2011	R.A.	12
25	January 3, 2012	R.A.	13

All in violation of Title 18, United States Code, Sections 1028A(a)(1) and (c)(5).

COUNTS TWENTY-SIX THROUGH THIRTY-ONE : (18 U.S.C. § 1028A(a)(1) and (c)(5) -

Aggravated Identity Theft)

25. On or about the dates identified below, within the Northern District of California, the defendant,

HOWARD WEBBER,

during and in relation to a felony violation of Title 18, United States Code Section 1341, knowingly transferred, possessed, and used without lawful authority a means of identification of another person during and in relation to the offenses in this Indictment identified as related counts below, that is, he knowingly transferred, possessed, and used the names and Social Security numbers of actual persons, listed by their initials below, to commit mail fraud by attempting to obtain the fraudulent income tax refunds identified below:

Count	Date of Offense (on or about)	Taxpayer listed on return	Related Count
26	November 8, 2011	J.T.	2
27	November 14, 2011	J.T.	3
28	November 10, 2011	N.C.	7
29	November 16, 2011	L.C.	8
30	November 16, 2011	L.C.	9

31	December 15, 2011	L.C.	10
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All in violation of Title 18, United States Code, Sections 1028A(a)(1) and (c)(5).

FIRST FORFEITURE ALLEGATION (scheme to commit mail fraud -18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. §2461(c))

26. The factual allegations contained in Counts One through Thirteen are realleged and incorporated by reference.

27. Upon conviction of the mail fraud in violation of Title 18, United States Code, Section 1341 or 1349, set forth in Counts One through Thirteen of this indictment, the defendants,

CLIFFORD DALE BERCOVICH
and HOWARD WEBBER,

shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 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 a violation of Title 18, United States Code, Section 1349, from the violations.

28. If any of the property described above, 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,

any and all interest the defendants have in any other property (not to exceed the value of the above forfeitable property) shall be forfeited to 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).

The forfeiture is authorized by Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c); Title 21, United States Code, Section 853(p) as incorporated by

1 Title 18, United States Code, Section 982(b)(1); and Federal Rule of Criminal Procedure 32.2.

2 SECOND FORFEITURE ALLEGATION (scheme to commit mail fraud -18 U.S.C.

3 § 981(a)(1)(C) and 28 U.S.C. §2461(c))

4 29. The factual allegations contained in Counts One through Thirteen are realleged and
5 incorporated by reference.

6 30. Upon conviction of any of the wire fraud offenses in violation of Title 18, United States
7 Code, Sections 1341 or 1349, set forth in Counts One to Thirteen of this indictment, the defendants,

8 CLIFFORD DALE BERCOVICH and
9 HOWARD WEBBER,

10 shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section
11 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any property, real or personal,
12 which constitutes or is derived from proceeds traceable to the offenses from the violations.

13 31. If any of the property described above, as a result of any act or omission of the
14 defendants:

15 CLIFFORD DALE BERCOVICH and
16 HOWARD WEBBER,

- 17 a. cannot be located upon the exercise of due diligence;
18 b. has been transferred or sold to, or deposited with, a third party;
19 c. has been placed beyond the jurisdiction of the court;
20 d. has been substantially diminished in value; or
21 e. has been commingled with other property which cannot be divided without
22 difficulty, any and all interest the defendants have in any other property (not to
23 exceed the value of the above forfeitable property) shall be forfeited to the United
24 States pursuant to Title 21, United States Code, Section 853(p), as incorporated
25 by Title 18, United States Code, Section 982(b)(1).

26 The forfeiture is authorized by to Title 18, United States Code, Section 981(a)(1)(C) and Title
27 28, United States Code, Section 2461(c); Title 21, United States Code, Section 853(p) as incorporated
28 by Title 18, United States Code, Section 982(b)(1); and Federal Rule of Criminal Procedure 32.2.

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All in violation of 18 U.S.C. §982(a)(2)(B).

A TRUE BILL.

Dated: *October 3, 2013*

Nancy J. Peterson
FOREPERSON

MELINDA HAAG
United States Attorney

J. Douglas Wilson
J. DOUGLAS WILSON
Chief, Criminal Division

Approved as to Form

Cynthia Stier
CYNTHIA STIER
Assistant United States Attorney
Tax Division