

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)
) No.
 v.)
) Violations: Title 18, United States Code,
 PHILLIP SMITH) Sections 287 and 1343
)

COUNT ONE

The SPECIAL JANUARY 2014 GRAND JURY charges:

1. At times material to this Indictment:

a. The Internal Revenue Service (“IRS”) was an agency of the United States Department of Treasury responsible for enforcing and administering the tax laws of the United States, and collecting taxes owed to the Treasury of the United States.

b. Taxpayers that were entitled to a refund of federal income taxes could claim that refund by filing a United States Individual Form 1040, 1040A, or 1040EZ (collectively referred to hereinafter as “Form 1040”).

c. The information that the Form 1040 required the taxpayer to provide included, but was not limited to, the taxpayer’s name and address, social security number, filing status, number of dependents, total income for the tax year, the amount of federal income tax withheld during the tax year, and the amount of tax due or refund claimed. The taxpayer was required to provide information contained in Form W-2 for any wages or salary claimed.

d. The Earned Income Credit (“EIC”) was a special tax credit for certain people who worked and earned below a threshold level of income, taking into account all taxable and non-taxable income. The EIC reduced the amount of income tax owed by an individual

taxpayer and, in some cases, caused a tax refund to be paid to the taxpayer. Taxpayers who qualified could claim the EIC by completing a Schedule EIC, which was required to be attached to the Form 1040.

e. Forms 1040, along with attached Forms W-2 and any other attached forms and schedules, were submitted to the Internal Revenue Service by mail or in person, or were electronically filed with an IRS service center.

f. Information in the Form 1040, including but not limited to the attached forms and schedules (collectively referred to as a “United States Individual Income Tax Return”), was material to the IRS in determining and issuing taxpayer refunds under the internal revenue laws.

2. Beginning not later than in or around January 2010, and continuing until in or around April 2013, at Chicago, in the Northern District of Illinois, and elsewhere,

PHILLIP SMITH,

defendant herein, along with others known and unknown to the grand jury, devised, intended to devise, and participated in a scheme to defraud and to obtain money and property from the United States Department of Treasury by means of materially false and fraudulent pretenses, representations and promises, which scheme is further described below.

3. It was part of the scheme that defendant PHILLIP SMITH prepared and caused to be prepared and submitted to the IRS more than 150 false and fraudulent United States Individual Income Tax Returns which sought more than \$1,000,000 in refunds on behalf of individuals who he knew were not entitled to such refunds.

4. It was further part of the scheme that defendant PHILLIP SMITH, in exchange for a fee, fabricated false Forms W-2 which purported to be issued by fictitious companies, such as

Yes We Can Maintenance Corporation, Hayes Corporation, Midwest Maintenance Contractors, Hammond Steel, First Capital Construction, and Top Notch Construction Co. (the “Bogus W-2s”), knowing that the Bogus W-2s would be used by his clients in support of false and fraudulent United States Individual Income Tax Returns that would be submitted to the IRS.

5. It was further part of the scheme that defendant PHILLIP SMITH created Bogus W-2s for his clients reporting false annual wage and tax withholding amounts designed to fraudulently generate significant EICs and tax refunds from the IRS when submitted in support of his client’s United States Individual Income Tax Return.

6. It was further part of the scheme that, in order to further the materially false representation that the Bogus W-2s were legitimate, defendant PHILLIP SMITH fraudulently obtained, or caused to be obtained, employer identification numbers (“EINs”) for the fictitious companies from the IRS, which EINs defendant included on the Bogus W-2s.

7. It was further part of the scheme that, in some instances, defendant PHILLIP SMITH directed clients to provide the Bogus W-2s to reputable tax preparation businesses knowing that the tax preparers would rely on the information on the Bogus W-2, thereby causing the tax preparers to submit false and fraudulent United States Individual Income Tax Returns to the IRS on behalf of defendant’s clients.

8. It was further a part of the scheme that, in some instances, defendant PHILLIP SMITH prepared false and fraudulent United States Individual Income Tax Returns, supported by his Bogus W-2s, and filed those returns electronically with the IRS on behalf of his clients.

9. It was further a part of the scheme that defendant PHILLIP SMITH knowingly prepared Bogus W-2s for his clients, and knowingly submitted false and fraudulent United States

Individual Income Tax Returns to the IRS on behalf of his clients, in exchange for a portion of the tax refunds they received from the IRS.

10. It was further a part of the scheme that defendant PHILLIP SMITH fabricated false documentation for his clients, such as fictitious employment verification letters and paystubs, to be submitted to the IRS when it sought additional records from his clients in support of their false and fraudulent United States Individual Income Tax Returns.

11. It was further a part of the scheme that defendant PHILLIP SMITH falsely and fraudulently posed as the employer of his clients during telephone calls with IRS representatives when it sought to verify telephonically the employment of his clients.

12. It was further a part of the scheme that defendant PHILLIP SMITH employed Individual E. H. to recruit clients, to distribute fraudulent Forms W-2, and to collect defendant's fee from his clients.

13. It was further a part of the scheme that defendant PHILLIP SMITH caused to be filed a 2009 United States Individual Income Tax Return, for taxpayer C.B., which falsely and fraudulently stated in that return:

- a. On Form 1040A, line 7, and on a Form W-2 from Yes We Can Maintenance, that Taxpayer C.B. had wages of \$16,724;
- b. On Form 1040A, line 41a, and on Schedule EIC, that Taxpayer C.B. was entitled to an Earned Income Credit of \$2,994; and
- c. On Form 1040A, lines 45 and 46a, that Taxpayer C.B. had overpaid her federal taxes in the amount of \$5,292 and was entitled to a refund of that amount.

14. It was further a part of the scheme that defendant PHILLIP SMITH caused to be filed a 2010 United States Individual Income Tax Return, for taxpayer C.B., which falsely and fraudulently stated in that return:

a. On Form 1040A, line 7, and on a Form W-2 from Yes We Can Maintenance, that Taxpayer C.B. had wages of \$17,722;

b. On Form 1040A, line 41a, and on Schedule EIC, that Taxpayer C.B. was entitled to an Earned Income Credit of \$4,767; and

c. On Form 1040A, lines 45 and 46a, that Taxpayer C.B. had overpaid her federal taxes in the amount of \$8,593 and was entitled to a refund of that amount.

15. It was further a part of the scheme that defendant PHILLIP SMITH caused to be filed a 2011 United States Individual Income Tax Return, for taxpayer C.B., which falsely and fraudulently stated in that return:

a. On Form 1040A, line 7, and on a Form W-2 from Yes We Can Maintenance, that Taxpayer C.B. had wages of \$17,680;

b. On Form 1040A, line 38a, and on Schedule EIC, that Taxpayer C.B. was entitled to an Earned Income Credit of \$4,905; and

c. On Form 1040A, lines 42 and 43a, that Taxpayer C.B. had overpaid her federal taxes in the amount of \$7,817 and was entitled to a refund of that amount.

16. It was further a part of the scheme that defendant PHILLIP SMITH caused to be filed a 2011 United States Individual Income Tax Return, for taxpayer A.C., which falsely and fraudulently stated in that return:

a. On Form 1040A, line 7, and on a Form W-2 from Top Notch Construction Co, that Taxpayer A.C. had wages of \$17,680;

b. On Form 1040A, line 38a, and on Schedule EIC, that Taxpayer A.C. was entitled to an Earned Income Credit of \$4,905; and

c. On Form 1040A, lines 42 and 43a, that Taxpayer A.C. had overpaid her federal taxes in the amount of \$8,817 and was entitled to a refund of that amount.

17. It was further a part of the scheme that defendant PHILLIP SMITH caused to be filed a 2009 United States Individual Income Tax Return, for taxpayer C.D., which falsely and fraudulently stated in that return:

a. On Form 1040A, line 7, and on a Form W-2 from Yes We Can Maintenance, that Taxpayer C.D. had wages of \$16,640;

b. On Form 1040A, line 41a, and on Schedule EIC, that Taxpayer C.D. was entitled to an Earned Income Credit of \$3,010; and

c. On Form 1040A, lines 45 and 46a, that Taxpayer C.D. had overpaid her federal taxes in the amount of \$5,668 and was entitled to a refund of that amount.

18. It was further a part of the scheme that defendant PHILLIP SMITH caused to be filed a 2010 United States Individual Income Tax Return, for taxpayer C.D., which falsely and fraudulently stated in that return:

a. On Form 1040A, line 7, and on a Form W-2 from Yes We Can Maintenance, that Taxpayer C.D. had wages of \$17,181;

b. On Form 1040A, line 41a, and on Schedule EIC, that Taxpayer C.D. was entitled to an Earned Income Credit of \$4,883; and

c. On Form 1040A, lines 45 and 46a, that Taxpayer C.D. had overpaid her federal taxes in the amount of \$8,734 and was entitled to a refund of that amount.

19. It was further a part of the scheme that defendant PHILLIP SMITH caused to be filed a 2011 United States Individual Income Tax Return, for taxpayer C.D., which falsely and fraudulently stated in that return:

- a. On Form 1040A, line 7, and on a Form W-2 from Yes We Can Maintenance, that Taxpayer C.D. had wages of \$17,181;
- b. On Form 1040A, line 38a, and on Schedule EIC, that Taxpayer C.D. was entitled to an Earned Income Credit of \$5,010; and
- c. On Form 1040A, lines 42 and 43a, that Taxpayer C.D. had overpaid her federal taxes in the amount of \$8,847 and was entitled to a refund of that amount.

20. It was further a part of the scheme that defendant PHILLIP SMITH caused to be filed a 2010 United States Individual Income Tax Return, for taxpayer L.B.J., which falsely and fraudulently stated in that return:

- a. On Form 1040A, line 7, and on a Form W-2 from Yes We Can Maintenance, that Taxpayer L.B.J. had wages of \$15,360;
- b. On Form 1040A, line 41a, and on Schedule EIC, that Taxpayer L.B.J. was entitled to an Earned Income Credit of \$5,036; and
- c. On Form 1040A, lines 45 and 46a, that Taxpayer L.B.J. had overpaid her federal taxes in the amount of \$8,468 and was entitled to a refund of that amount.

21. It was further a part of the scheme that defendant PHILLIP SMITH caused to be filed a 2011 United States Individual Income Tax Return, for taxpayer L.B.J., which falsely and fraudulently stated in that return:

- a. On Form 1040A, line 7, and on a Form W-2 from Yes We Can Maintenance, that Taxpayer L.B.J. had wages of \$17,680;

b. On Form 1040A, line 38a, and on Schedule EIC, that Taxpayer L.B.J. was entitled to an Earned Income Credit of \$4,905; and

c. On Form 1040A, lines 42 and 43a, that Taxpayer L.B.J. had overpaid her federal taxes in the amount of \$8,817 and was entitled to a refund of that amount.

22. It was further a part of the scheme that defendant PHILLIP SMITH caused to be filed a 2010 United States Individual Income Tax Return, for taxpayer L.J., which falsely and fraudulently stated in that return:

a. On Form 1040A, line 7, and on a Form W-2 from Yes We Can Maintenance, that Taxpayer L.J. had wages of \$16,817;

b. On Form 1040A, line 41a, and on Schedule EIC, that Taxpayer L.J. was entitled to an Earned Income Credit of \$4,957; and

c. On Form 1040A, lines 45 and 46a, that Taxpayer L.J. had overpaid her federal taxes in the amount of \$9,268 and was entitled to a refund of that amount.

23. It was further a part of the scheme that defendant PHILLIP SMITH caused to be filed a 2011 United States Individual Income Tax Return, for taxpayer L.J., which falsely and fraudulently stated in that return:

a. On Form 1040A, line 7, and on a Form W-2 from Yes We Can Maintenance, that Taxpayer L.J. had wages of \$17,181;

b. On Form 1040A, line 38a, and on Schedule EIC, that Taxpayer L.J. was entitled to an Earned Income Credit of \$5,649; and

c. On Form 1040A, lines 42 and 43a, that Taxpayer L.J. had overpaid her federal taxes in the amount of \$9,613 and was entitled to a refund of that amount.

24. It was further a part of the scheme that defendant PHILLIP SMITH concealed, misrepresented, and hid, and caused to be concealed, misrepresented, and hidden, the existence and purpose of the scheme.

25. On or about January 22, 2010, at Chicago, in the Northern District of Illinois, Eastern Division,

PHILLIP SMITH,

defendant herein, for the purpose of executing the scheme described above, did knowingly cause to be transmitted by means of wire communication in interstate commerce certain signs and signals, namely, a United States Individual Income Tax Return for the tax year 2009 on behalf of Taxpayer C.B., from Chicago, Illinois, to the IRS in Kansas City, Missouri;

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT TWO

THE SPECIAL JANUARY 2014 GRAND JURY further charges:

1. Paragraphs 1 through 24 of Count One are realleged and incorporated here.
2. On or about January 19, 2011, at Chicago, in the Northern District of Illinois,

Eastern Division,

PHILLIP SMITH,

defendant herein, for the purpose of executing the scheme described above, did knowingly cause to be transmitted by means of wire communication in interstate commerce certain signs and signals, namely, a United States Individual Income Tax Return for the tax year 2010 on behalf of Taxpayer C.B., from Chicago, Illinois, to the IRS in Kansas City, Missouri;

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT THREE

THE SPECIAL JANUARY 2014 GRAND JURY further charges:

1. Paragraphs 1 through 24 of Count One are realleged and incorporated here.
2. On or about January 19, 2012, at Chicago, in the Northern District of Illinois,

Eastern Division,

PHILLIP SMITH,

defendant herein, for the purpose of executing the scheme described above, did knowingly cause to be transmitted by means of wire communication in interstate commerce certain signs and signals, namely, a United States Individual Income Tax Return for the tax year 2011 on behalf of Taxpayer C.B., from Chicago, Illinois, to the IRS in Kansas City, Missouri;

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT FOUR

THE SPECIAL JANUARY 2014 GRAND JURY further charges:

1. Paragraphs 1 through 24 of Count One are realleged and incorporated here.
2. On or about January 17, 2012, at Chicago, in the Northern District of Illinois,

Eastern Division,

PHILLIP SMITH,

defendant herein, for the purpose of executing the scheme described above, did knowingly cause to be transmitted by means of wire communication in interstate commerce certain signs and signals, namely, a United States Individual Income Tax Return for the tax year 2011 on behalf of Taxpayer A.C., from Chicago, Illinois, to the IRS in Kansas City, Missouri;

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT FIVE

THE SPECIAL JANUARY 2014 GRAND JURY further charges:

1. Paragraphs 1 through 24 of Count One are realleged and incorporated here.
2. On or about January 30, 2010, at Chicago, in the Northern District of Illinois,

Eastern Division,

PHILLIP SMITH,

defendant herein, for the purpose of executing the scheme described above, did knowingly cause to be transmitted by means of wire communication in interstate commerce certain signs and signals, namely, a United States Individual Income Tax Return for the tax year 2009 on behalf of Taxpayer C.D., from Chicago, Illinois, to the IRS in Kansas City, Missouri;

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT SIX

THE SPECIAL JANUARY 2014 GRAND JURY further charges:

1. Paragraphs 1 through 24 of Count One are realleged and incorporated here.
2. On or about January 15, 2011, at Chicago, in the Northern District of Illinois,

Eastern Division,

PHILLIP SMITH,

defendant herein, for the purpose of executing the scheme described above, did knowingly cause to be transmitted by means of wire communication in interstate commerce certain signs and signals, namely, a United States Individual Income Tax Return for the tax year 2010 on behalf of Taxpayer C.D., from Chicago, Illinois, to the IRS in Kansas City, Missouri;

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT SEVEN

THE SPECIAL JANUARY 2014 GRAND JURY further charges:

1. Paragraphs 1 through 24 of Count One are realleged and incorporated here.
2. On or about January 16, 2012, at Chicago, in the Northern District of Illinois,

Eastern Division,

PHILLIP SMITH,

defendant herein, for the purpose of executing the scheme described above, did knowingly cause to be transmitted by means of wire communication in interstate commerce certain signs and signals, namely, a United States Individual Income Tax Return for the tax year 2011 on behalf of Taxpayer C.D., from Chicago, Illinois, to the IRS in Kansas City, Missouri;

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT EIGHT

THE SPECIAL JANUARY 2014 GRAND JURY further charges:

1. Paragraph 1 of Count One is realleged and incorporated here.
2. On or about February 14, 2013, at Chicago, in the Northern District of Illinois,

Eastern Division,

PHILLIP SMITH,

defendant herein, made and caused to be presented to the IRS a claim upon and against the United States Department of Treasury, namely, a 2012 United States Individual Income Tax Return, which included a false Form W-2 and Schedule EIC in the name of Taxpayer C.D., and which claimed a \$5,557 federal income tax refund, knowing that the claim was false, fictitious, and fraudulent in that the return falsely reflected that Taxpayer C.D. had earned income from Midwest Maintenance Contractors in the amount of \$17,680 and that she was entitled to an Earned Income Credit in the amount of \$3,075;

In violation of Title 18, United States Code, Sections 287 and 2.

COUNT NINE

THE SPECIAL JANUARY 2014 GRAND JURY further charges:

1. Paragraphs 1 through 24 of Count One are realleged and incorporated here.
2. On or about January 18, 2011, at Chicago, in the Northern District of Illinois,

Eastern Division,

PHILLIP SMITH,

defendant herein, for the purpose of executing the scheme described above, did knowingly cause to be transmitted by means of wire communication in interstate commerce certain signs and signals, namely, a United States Individual Income Tax Return for the tax year 2010 on behalf of Taxpayer L.B.J., from Chicago, Illinois, to the IRS in Kansas City, Missouri;

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT TEN

THE SPECIAL JANUARY 2014 GRAND JURY further charges:

1. Paragraphs 1 through 24 of Count One are realleged and incorporated here.
2. On or about January 17, 2012, at Chicago, in the Northern District of Illinois,

Eastern Division,

PHILLIP SMITH,

defendant herein, for the purpose of executing the scheme described above, did knowingly cause to be transmitted by means of wire communication in interstate commerce certain signs and signals, namely, a United States Individual Income Tax Return for the tax year 2011 on behalf of Taxpayer L.B.J., from Chicago, Illinois, to the IRS in Kansas City, Missouri;

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT ELEVEN

THE SPECIAL JANUARY 2014 GRAND JURY further charges:

1. Paragraphs 1 through 24 of Count One are realleged and incorporated here.
2. On or about March 9, 2011, at Chicago, in the Northern District of Illinois,

Eastern Division,

PHILLIP SMITH,

defendant herein, for the purpose of executing the scheme described above, did knowingly cause to be transmitted by means of wire communication in interstate commerce certain signs and signals, namely, a United States Individual Income Tax Return for the tax year 2010 on behalf of Taxpayer L.J., from Chicago, Illinois, to the IRS in Kansas City, Missouri;

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT TWELVE

THE SPECIAL JANUARY 2014 GRAND JURY further charges:

1. Paragraphs 1 through 24 of Count One are realleged and incorporated here.
2. On or about January 17, 2012, at Chicago, in the Northern District of Illinois,

Eastern Division,

PHILLIP SMITH,

defendant herein, for the purpose of executing the scheme described above, did knowingly cause to be transmitted by means of wire communication in interstate commerce certain signs and signals, namely, a United States Individual Income Tax Return for the tax year 2011 on behalf of Taxpayer L.J., from Chicago, Illinois, to the IRS in Kansas City, Missouri;

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT THIRTEEN

THE SPECIAL JANUARY 2014 GRAND JURY further charges:

1. Paragraph 1 of Count One is realleged and incorporated here.
2. On or about February 14, 2013, at Chicago, in the Northern District of Illinois,

Eastern Division,

PHILLIP SMITH,

defendant herein, made and caused to be presented to the IRS a claim upon and against the United States Department of Treasury, namely, a 2012 United States Individual Income Tax Return, which included a false Form W-2 and Schedule EIC in the name of Taxpayer L.J., and which claimed a \$9,864 federal income tax refund, knowing that the claim was false, fictitious, and fraudulent in that the return falsely reflected that Taxpayer L.J. had earned income from Midwest Maintenance Contractors in the amount of \$17,680 and that she was entitled to an Earned Income Credit in the amount of \$5,767;

In violation of Title 18, United States Code, Sections 287 and 2.

FORFEITURE ALLEGATION

The SPECIAL JANUARY 2014 GRAND JURY further alleges:

1. The allegations contained in Counts One through Thirteen are incorporated here for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c).

2. As a result of the violation of Title 18, United States Code, Section 1343, as alleged in the foregoing indictment,

PHILLIP SMITH,

defendant herein, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any and all right, title, and interest defendant may have in any property, real and personal, which constitutes or is derived from proceeds obtained directly or indirectly from the offense conduct.

3. The interests of defendant subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), include but are not limited to approximately \$840,706.

4. 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 to, 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;

e. has been commingled with other property which cannot be subdivided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p) as incorporated by Title 28, United States Code, Section 2461(c);

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

A TRUE BILL:

FOREPERSON

UNITED STATES ATTORNEY