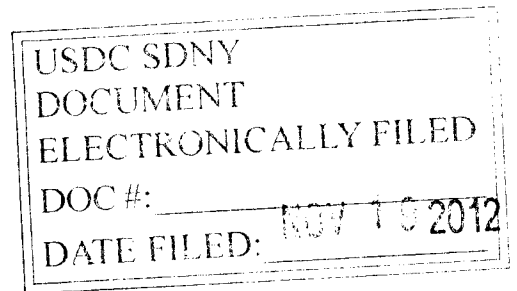


ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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UNITED STATES OF AMERICA :

-v.-

: INDICTMENT

MARK GOLDBERG, :

Defendant. :

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12 CRIM 864
12 CRIM 864

COUNTS ONE THROUGH FORTY

(Aiding and Assisting Preparation of False and
Fraudulent U.S. Individual Income Tax Returns)

The Grand Jury charges:

Background

1. At all times relevant to this Indictment, MARK GOLDBERG, the defendant, was a resident of the Bronx, New York, and was in the business of preparing U.S. Individual Income Tax Returns ("Federal Tax Returns") and New York State Income Tax Returns ("New York Returns") for individuals (the "Clients") in exchange for fees. GOLDBERG carried out his tax preparation business principally through various business entities he owned and controlled and which were located in the Bronx, including E&M Multi Services, Inc. ("E&M") and MG Business Group, Inc. ("MG"). GOLDBERG also prepared certain of the Clients' tax returns from his home in the Bronx.

2. MARK GOLDBERG, the defendant, typically caused the filing of his Clients' tax returns electronically, using an Electronic Filing Identification Number ("EFIN") obtained from the Internal Revenue Service ("IRS"). In order to obtain EFINs for E&M and MG, GOLDBERG caused other people to provide personal information to GOLDBERG so that applications could be

JUDGE PRESKA

submitted by or in the names of the others rather than by or in the name of MARK GOLDBERG. Specifically, on or about January 19, 2010, GOLDBERG, caused an employee of his tax preparation business to apply for an EFIN for MG. In addition, on or about November 15, 2010, GOLDBERG caused his father to apply for an EFIN for E & M. GOLDBERG also caused his father — who played no role in MARK GOLDBERG’s tax preparation business — to apply to the IRS, in or about December 2010, for a Preparer Tax Identification Number (“PTIN”), which resulted in the issuance to GOLDBERG’s father of PTIN number Pxxxx3324. GOLDBERG thereafter used the EFINs and PTIN obtained by or through the others in carrying out his tax preparation activities.

3. Between 2005 and 2012, MARK GOLDBERG, the defendant, prepared and caused to be filed over four thousand income tax returns with the IRS and the New York State Department of Taxation and Finance.

Relevant Provisions of the Internal Revenue Code

4. At all relevant times to this Indictment:

(a) Pursuant to the Internal Revenue Code and attendant regulations, individual taxpayers generally are required annually to report their income, tax liabilities, and, where appropriate, any claim for a refund on a U. S. Individual Income Tax Return, Form 1040, (“Form 1040”), which must be filed with the IRS, which is part of the United States Department of the Treasury.

(b) A Schedule A (“Itemized Deductions”) is an IRS form that is attached to a Form 1040 when applicable and must be used by taxpayers to claim certain permissible deductions from taxable income. Deductions to be claimed on Schedule A include, among other things: medical and dental expenses, gifts to charity, job-related and other miscellaneous expenses (such as

unreimbursed employee expenses), and state and local taxes paid.

(c) A Schedule C (“Profit or Loss From Business Sole Proprietorship”) is an IRS form that is attached to a Form 1040 when applicable and must be used by taxpayers to report the gross receipts, expenses, and profit or loss from a business operated by the taxpayer as a sole proprietorship.

(d) A Schedule E (“Supplemental Income and Loss From Rental Real Estate, Royalties, Partnerships”) is an IRS form that is attached to a Form 1040 when applicable and must be used by taxpayers to report, among other things, the income, expenses, and the total annual income or loss from rental real estate.

(e) The American Opportunity Credit is a tax credit that may be claimed by taxpayers on Form 1040, and accompanying Schedule 8863, thereby providing a tax benefit based on the payment during the relevant tax year of certain higher-education expenses. A tax credit reduces the amount of income tax a taxpayer may have to pay. Unlike a deduction, which serves to reduce the amount of income subject to tax, a credit directly reduces the tax itself. In addition, forty per cent of the American Opportunity Credit is refundable, which means that if the refundable portion of the credit is more than the taxpayer’s tax liability, the excess is refunded by the IRS to the taxpayer. Taxpayers eligible to claim the American Opportunity Credit are able to claim a credit of up to \$2500 per year for qualified education expenses paid for each eligible student. Qualified education expenses are those tuition and certain related expenses required for enrollment or attendance at an eligible educational institution. An eligible educational institution is any college, university, vocational school, or other post-secondary educational institution that is eligible to participate in a student aid program administered by the U.S. Department of Education.

(f) The Earned Income Tax Credit is a refundable tax credit that low-income taxpayers may claim depending on, among other things, whether their earned income is within a certain range, their investment income is not greater than a certain amount, and whether they file a joint return with their spouse.

The Tax Preparation Fraud Orchestrated by MARK GOLDBERG

5. MARK GOLDBERG, the defendant, regularly prepared and caused to be filed with the IRS Federal Tax Returns and accompanying forms and schedules for his Clients that were false and fraudulent. For example, GOLDBERG typically prepared and caused to be filed with the IRS Federal Tax Returns with the following fabricated and/or fraudulently inflated items: (i) American Opportunity Credits, or “tuition credits”; (ii) tuition expenses; (iii) unreimbursed employee business expenses; (iv) medical and dental expenses; (v) gifts to charity; (vi) Schedule C business income and losses; (vii) Schedule E rental real estate losses; and (viii) earned income tax credits. Between 2005 and 2012, GOLDBERG caused the preparation and filing of Federal Tax Returns for his Clients that included over \$7,000,000 of fabricated and fraudulently inflated deductions, expenses, and credits.

6. The inclusion by MARK GOLDBERG, the defendant, of the aforementioned fabricated and inflated items on the Clients’ Federal Tax Returns resulted in the fraudulent reduction of the Clients’ tax liabilities and/or the receipt by the Clients of over \$2,000,000 in IRS refunds to which the Clients were not lawfully entitled. The preparation of the aforementioned tax returns also resulted in the receipt by GOLDBERG, through an E&M bank account, of over \$400,000 in fees from his Clients.

Statutory Allegations

7. On or about the dates set forth below, in the Southern District of New York

and elsewhere, MARK GOLDBERG, the defendant, willfully and knowingly did aid and assist in, and procure, counsel, and advise the preparation and presentation under, and in connection with matters arising under, the internal revenue laws of the United States, of a return, affidavit, claim, and other document, to wit, U.S. Individual Income Tax Returns, Forms 1040, and accompanying forms and schedules, for the taxpayers listed below, and for the tax years listed below, which returns were false and fraudulent as to material matters, in that, among other things, the returns fabricated and/or falsely overstated items such as tuition credits, tuition expenses, unreimbursed employee business expenses, medical and dental expenses, gifts to charity, Schedule C business income or losses, Schedule E rental real estate losses, and/or earned income tax credits, as set forth below:

Count	Taxpayer	Tax Year	Approx. Filing Date of Return	Nature of Fabricated and/or Inflated Item(s)	Approximate Amount of Fabricated and/or Inflated Item(s)
1	DC	2006	03/19/2007	Schedule C Business Loss Rental Real Estate Loss Gifts to Charity Unreimbursed employee expenses	\$11,099 \$23,765 \$ 5,000 \$ 4,810
2	DC	2007	03/04/2008	Schedule C Business Loss Medical/Dental Expenses Gifts to Charity Unreimbursed employee expenses	\$12,709 \$ 9,365 \$ 5,950 \$ 6,518
3	DC	2008	01/28/2009	Medical/Dental Expenses Gifts to Charity Unreimbursed employee expenses	\$10,376 \$ 6,500 \$ 6,502
4	DC	2009	03/11/2010	Medical/Dental Expenses Gifts to Charity Unreimbursed employee expenses	\$ 7,525 \$ 4,000 \$ 7,083
5	DC	2010	06/14/2011	Medical/Dental Expenses Tuition Credit Tuition Expenses Unreimbursed employee expenses	\$ 7,145 \$ 2,500 \$ 4,000 \$ 6,938
6	DC	2011	03/26/2012	Medical/Dental Expenses Tuition Credit Tuition Expenses Unreimbursed employee expenses	\$ 6,450 \$ 2,500 \$ 4,000 \$16,285

Count	Taxpayer	Tax Year	Approx. Filing Date of Return	Nature of Fabricated and/or Inflated Item(s)	Approximate Amount of Fabricated and/or Inflated Item(s)
7	SG	2010	02/10/2011	Head of Household Filing Status Dependency Exemption (EG) Tuition Credit Tuition Expenses	\$ 2,700 \$ 3,650 \$ 3,611 \$ 8,000
8	SG	2011	02/10/2012	Tuition Credit Tuition Expenses	\$ 2,500 \$ 4,000
9	LE	2010	02/03/2011	Tuition Credit Tuition Expenses	\$ 1,000 \$ 4,000
10	LE	2011	03/15/2012	Tuition Credit Tuition Expenses	\$ 1,000 \$ 4,000
11	TF	2011	01/31/2012	Schedule C Business Income Earned Income Tax Credit Tuition Credit Tuition Expenses Additional Child Tax Credit	\$11,045 \$ 3,717 \$ 1,000 \$ 4,000 \$ 1,540
12	LG	2011	02/05/2012	Unreimbursed employee expenses Tuition Credit Tuition Expenses	\$11,744 \$ 2,500 \$ 4,000
13	BG	2011	01/30/2012	Tuition Credit Tuition Expenses	\$ 2,500 \$ 4,000
14	RG	2011	01/17/2012	Schedule C Business Income Earned Income Tax Credit Additional Child Tax Credit Tuition Credit Tuition Expense	\$ 7,055 \$ 4,490 \$ 983 \$ 1,000 \$ 4,000
15	LH	2010	02/10/2011	Tuition Credit Tuition Expenses	\$ 1500 \$ 3,000
16	LH	2011	02/20/2012	Tuition Credit Tuition Expenses	\$ 1,500 \$ 3,000
17	WP	2011	02/03/2012	Unreimbursed employee expenses Gifts to Charity Tuition Credit Tuition Expenses	\$ 9,626 \$10,000 \$ 2,500 \$ 4,000
18	RR	2009	04/09/2010	Schedule C Business Income Earned Income Tax Credit Additional Child Tax Credit	\$ 9,720 \$ 3,043 \$ 905
19	RR	2010	02/03/2011	Schedule C Business Income Earned Income Tax Credit Additional Child Tax Credit	\$ 4,020 \$ 1,500 \$ 561

Count	Taxpayer	Tax Year	Approx. Filing Date of Return	Nature of Fabricated and/or Inflated Item(s)	Approximate Amount of Fabricated and/or Inflated Item(s)
20	RR	2011	02/13/2012	Schedule C Business Income Earned Income Tax Credit Additional Child Tax Credit Tuition Credit Tuition Expenses	\$12,020 \$ 4,470 \$ 1,226 \$ 1,000 \$ 4,000
21	JR	2009	02/24/2010	Unreimbursed employee expenses Medical and Dental Expenses Gifts to Charity	\$ 9,963 \$10,735 \$ 5,000
22	JR	2010	02/03/2011	Tuition Credit Tuition Expenses	\$ 2,153 \$ 4,000
23	JR	2011	02/09/2012	Unreimbursed employee expenses Tuition Credit Tuition expenses	\$14,383 \$ 1,568 \$ 4,000
24	MLR	2010	03/10/2011	Schedule C Business Income Earned Income Tax Credit Additional Child Tax Credit Tuition Credit Tuition Expenses	\$ 7,180 \$ 2,660 \$ 915 \$ 2,029 \$ 8,000
25	MLR	2011	02/22/2012	Schedule C Business Loss Earned Income Tax Credit Additional Child Tax Credit Tuition Credit Tuition Expenses	\$12,020 \$ 4,470 \$ 1,226 \$ 1,000 \$ 4,000
26	PS	2011	02/22/2012	Earned Income Tax Credit Tuition Credit Tuition Expenses	\$ 464 \$ 1,000 \$ 4,000
27	RS	2009	02/11/2010	Unreimbursed employee expenses Medical and Dental expenses	\$12,283 \$ 7,260
28	RS	2010	03/03/2011	Unreimbursed employee expenses Medical and Dental expenses Tuition Credit Tuition Expenses	\$10,190 \$ 4,525 \$ 2,500 \$ 4,000
29	RS	2011	02/21/2012	Unreimbursed employee expenses Tuition Credit Tuition Expenses	\$14,603 \$ 2,500 \$ 4,000
30	LS	2009	03/01/2010	Head of Household Filing Status Dependency Exemption for PS Unreimbursed employee expenses Tuition Credit Tuition Expenses	\$ 2,650 \$ 3,650 \$ 7,482 \$ 1,000 \$ 4,000

Count	Taxpayer	Tax Year	Approx. Filing Date of Return	Nature of Fabricated and/or Inflated Item(s)	Approximate Amount of Fabricated and/or Inflated Item(s)
31	LS	2010	02/22/2011	Dependency Exemption for PS Tuition Credit Tuition Expenses	\$ 3,650 \$ 2,000 \$ 8,000
32	LS	2011	02/16/2012	Tuition Credit Tuition Expenses	\$ 1,000 \$ 4,000
33	BS	2011	03/28/2012	Unreimbursed employee expenses Tuition Credit Tuition Expenses	\$14,125 \$ 2,500 \$ 4,000
34	MS	2011	02/25/2012	Tuition Credit Tuition Expenses	\$ 2,500 \$ 4,000
35	SS	2009	02/11/2010	Head of Household Filing Status Schedule C Business Income Earned Income Tax Credit	\$ 2,650 \$ 5,220 \$ 1,636
36	SS	2010	04/01/2011	Head of Household Filing Status Earned Income Tax Credit Tuition Credit Tuition Expenses	\$ 2,700 \$ 2,130 \$ 1,274 \$ 4,000
37	SS	2011	02/18/2012	Head of Household Filing Status Earned Income Tax Credit Tuition Credit Tuition Expenses	\$ 2,700 \$ 2,693 \$ 1,018 \$ 4,000
38	MV	2011	02/18/2012	Schedule C Business Income Tuition Credit Tuition Expenses	\$ 5,875 \$ 1,000 \$ 4,000
39	YV	2010	02/19/2011	Tuition Credit Tuition Expenses	\$ 1,000 \$ 4,000
40	YV	2011	01/27/2012	Schedule C Business Income Tuition Credit Tuition Expenses	\$ 4,220 \$ 2,000 \$8,000

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

COUNTS FORTY-ONE THROUGH FORTY-FOUR

(Subscribing to False and Fraudulent U.S.
Individual Income Tax Returns)

The Grand Jury further charges:

8. In addition to preparing and causing the filing of false and fraudulent Federal Tax

Returns on behalf of his Clients, MARK GOLDBERG, the defendant, prepared and caused to be filed false and fraudulent Federal Tax Returns for himself. Those returns were false and fraudulent in that they, among other things: (i) claimed that GOLDBERG had received significant amounts of wage income from which taxes had been withheld; (ii) claimed that significant amounts of state and local taxes had been paid; (iii) claimed tuition credits; and (iv) claimed significant refunds.

9. The inclusion by MARK GOLDBERG, the defendant, of the aforementioned false and fraudulent items on his own Federal Tax Returns resulted in the fraudulent reduction of GOLDBERG's tax liabilities and/or the receipt by GOLDBERG of refunds to which he was not lawfully entitled.

Statutory Allegations

10. On or about the dates set forth below, in the Southern District of New York and elsewhere, MARK GOLDBERG, the defendant, willfully and knowingly did make and subscribe a U.S. Individual Income Tax Return, Form 1040, for the tax years set forth below, which returns contained and were verified by the written declaration of GOLDBERG that they were made under penalties of perjury, and which returns GOLDBERG did not believe to be true and correct as to every material matter, in that GOLDBERG, the defendant: (i) claimed that GOLDBERG had received significant amounts of wage income from which taxes had been withheld; (ii) claimed that significant amounts of state and local taxes had been paid; (iii) claimed tuition credits; (iv) claimed tuition expenses; and (iv) claimed significant refunds, as detailed below:

Count	Tax Year	Approx. Filing Date of Return	Nature of Fabricated and/or Inflated Item(s)	Approximate Amount of Fabricated and/or Inflated Item(s)
41	2006	01/31/2007	Wages Received Federal Income Tax Withheld State and Local Taxes Paid Refund	\$ 75,000 \$ 30,000 \$ 22,176 \$ 21,091
42	2007	01/16/2008	Wages Received Federal Income Tax Withheld State and Local Taxes Paid Refund	\$105,000 \$ 28,399 \$ 25,571 \$ 8,815
43	2010	01/19/2011	Tuition Credit Tuition Expenses	\$ 1,000 \$ 4,000
44	2011	01/18/2012	Tuition Credit Tuition Expenses	\$ 1,000 \$ 4,000

(Title 26, United States Code, Section 7206(l).)

COUNT FORTY-FIVE

(Corruptly Obstructing and Impeding the Due Administration
of the Internal Revenue Laws)

The Grand Jury further charges:

11. The allegations in paragraphs 1 through 6, and 8-9 of this Indictment are repeated and realleged as though fully set forth herein.

12. From in or about January 2005 through in or about April 2012, in the Southern District of New York and elsewhere, MARK GOLDBERG, the defendant, did corruptly obstruct and impede, and endeavor to obstruct and impede, as set forth above, the due administration of the Internal Revenue Laws.

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

COUNT FORTY-SIX

(Wire Fraud)

The Grand Jury further charges:

13. The allegations in paragraphs 1 through 6, and 8-9 of this Indictment are repeated and realleged as though fully set forth herein.

14. Together with the above-described false and fraudulent Federal Tax Returns prepared for his Clients and himself for the period 2004 through 2012, MARK GOLDBERG, the defendant, prepared and caused to be filed with the New York State Department of Taxation and Finance over twenty-three hundred New York Returns. Those New York Returns were false and fraudulent in that they falsely claimed deductions and credits that the Clients and GOLDBERG were not entitled to claim, including, among others, tuition credits.

15. The inclusion by MARK GOLDBERG, the defendant, of the aforementioned fabricated and inflated items on GOLDBERG's and his Clients' New York Returns resulted in the fraudulent reduction of GOLDBERG's and the Clients' New York tax liabilities and the receipt by GOLDBERG and the Clients, from New York State, of over \$600,000 in refunds to which GOLDBERG and the Clients were not lawfully entitled.

Statutory Allegations

16. From in or about January 2005 through April 2012, in the Southern District of New York and elsewhere, MARK GOLDBERG, the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, to wit, a scheme to defraud the IRS and the New York State Department of Taxation and Finance, through the preparation and filing of false and fraudulent Federal Tax Returns and New York Returns on behalf of GOLDBERG's Clients

and GOLDBERG individually, for the purpose of executing such scheme and artifice, transmitted and caused to be transmitted by means of wire communications in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, to wit, tax returns, tax refunds, e-mails, faxes, pre-paid card activation numbers, pre-paid card activation account numbers, and bank routing numbers.

(Title 18, United States Code, Sections 1343 and 2.)

FORFEITURE ALLEGATIONS

17. As the result of committing the wire fraud offense alleged in Count Forty-Six of this Indictment, in violation of Title 18, United States Code, Sections 1343, MARK GOLDBERG, the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 28 U.S.C. § 2461(c), all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense, including but not limited to the following:

a. At least \$500,000 in United States currency, in that such sum in aggregate is property representing the amount of proceeds obtained as a result of the wire fraud offenses contained in Count Forty-Seven.

b. All United States currency, funds, or other monetary instruments on deposit in account number 7047526188 in the name of E&M Multi Services, Inc at Capital One Bank;

c. All United States currency, funds, credits, debit cards, or other monetary instruments representing the proceeds of GOLDBERG's wire fraud offense and which are in the possession or under the control of Futura Card Services and First California Bank.

Substitute Asset Provision

18. If any of the above-described forfeitable property, 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 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981; Title 21, United States Code, Section 853; and Title 28, United States Code, Section 2461.)

FOREPERSON

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Preet B. Bharara
PREET BHARARA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA

- v. -

MARK GOLDBERG,

Defendant.

INDICTMENT

12 Cr.

(26 U.S.C. §§ 7206(2), 7206(1); 7212(a);
18 U.S.C. §§ 1343, 981, and 982).

PREET BHARARA

United States Attorney.

FOR THE DEFENDANT

for person.

Nov. 19, 2012

Filed Indictment. Case assigned to Judge Preska.

U.S.M.J. Debra Freeman.