

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	CRIMINAL NO. 14-271
v.	*	SECTION: "L"
DONALD STEWART	*	MAGISTRATE: 2

* * *

FACTUAL BASIS

The defendant, **DONALD STEWART**, has agreed to plead guilty as charged to Count Three, that is, theft of public money, in violation of Title 18, United States Code, Section 641, and Count Nine, that is, aggravated identity theft, in violation of Title 18, United States Code, Section 1028A, of the indictment currently pending against him.

This Factual Basis does not attempt to set forth all of the facts known to the United States at this time. The limited purpose of this Factual Basis is to demonstrate that there exists a sufficient legal basis for **DONALD STEWART**'s plea of guilty theft of public money and aggravated identity theft. By their signatures below, the parties expressly agree that there is a factual basis for the guilty plea that the defendant will tender pursuant to the plea agreement. The parties also agree that this Factual Basis may, but need not, be used by the United States Probation Office and the Court in determining the applicable advisory guideline range under the United States Sentencing Guidelines or the appropriate sentence under 18 U.S.C. § 3553(a). The defendant agrees not to object to any fact set forth below being used by the Court or the United States Probation Office to determine the applicable advisory guideline range or the appropriate sentence under 18 U.S.C. § 3553(a). The parties' agreement does not preclude either party from hereafter presenting the Court with additional facts which do not contradict facts to which the

parties have agreed not to object and which are relevant to the Court's guideline computations, to 18 U.S.C. § 3553 factors, or to the Court's overall sentencing decision.

The United States and **STEWART** do hereby stipulate and agree that the allegations in the indictment and the following facts are true and correct and that, should this matter have proceeded to trial, the government would have proven them beyond a reasonable doubt, through the introduction of competent testimony and admissible tangible and documentary exhibits.

AT ALL TIMES MATERIAL HEREIN

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.

A "means of identification" was any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including a name, signature, Social Security number, or date of birth.

Defendant **DONALD STEWART** resided in New Orleans, Louisiana, which is within the Eastern District of Louisiana.

Bank of Louisiana was a financial institution with banking locations within the Eastern District of Louisiana, the deposits of which were insured by the Federal Deposit Insurance Corporation.

On or about the following dates, within the Eastern District of Louisiana, defendant **DONALD STEWART** opened and maintained signature authority over the following accounts at Bank of Louisiana:

Date Opened	Name on Account	Account Number
February 26, 2002	Donald Stewart	Account # **4466
January 9, 2004	Stewart LTD	Account # **2558
January 30, 2007	Don Dansani LTD	Account # **5044
June 1, 2007	Don Dansani LTD	Account # **0557

On or about November 17, 2001, defendant **DONALD STEWART** applied for an Electronic Filing Information Number (“EFIN”) from the IRS. From approximately 2001 through 2008, defendant **DONALD STEWART** acted as a tax return preparer under the business names Stewart’s Tax Service and Stewart LTD, using EFIN **5866 to file tax returns electronically with the IRS. On or about May 8, 2008, EFIN **5866 was suspended by the IRS.

From at least January 28, 2011 and continuing through at least February 11, 2012, defendant **DONALD STEWART** caused federal and state tax refunds in the names of others to be electronically deposited into accounts under his control at Bank of Louisiana. Defendant **DONALD STEWART** then wrote checks drawn on these accounts and cashed them at Bank of Louisiana. During this time, the accounts at Bank of Louisiana controlled by defendant **DONALD STEWART** received electronic deposits of federal tax refunds of approximately \$37,809.

From at least September 21, 2011, through at least April 25, 2012, defendant **DONALD STEWART** caused tax refunds, in the form of Treasury checks made payable to others, to be cashed at Bank of Louisiana or deposited into accounts at Bank of Louisiana under his control. During this time, defendant **DONALD STEWART** caused Treasury checks totaling approximately \$539,393 to be cashed or deposited into accounts under his control at Bank of Louisiana.

Defendant **DONALD STEWART** further devised, and intended to devise, a scheme and artifice to defraud and to obtain money and property by means of false pretenses, promises, and

representations. As part of this scheme, **DONALD STEWART** obtained the means of identification of individuals, including their names and Social Security numbers.

Defendant **DONALD STEWART** used the means of identification to electronically file false federal income tax returns with the IRS that claimed income tax refunds. **DONALD STEWART** directed the income tax refunds to be electronically transferred into bank accounts under his control at the Bank of Louisiana. Defendant **DONALD STEWART** then withdrew the proceeds of the fraudulently obtained income tax refunds from bank accounts under his control.

OFFENSES OF THEFT OF PUBLIC MONEY AND AGGRAVATED IDENTITY THEFT

On or about February 9, 2012, within the Eastern District of Louisiana, defendant **DONALD STEWART**, aided and abetted by others, did steal, purloin, and knowingly convert to his own use and the use of others, money of the United States, namely, funds administered by the Department of the Treasury in the form of a federal tax refund in the name of J.C., in the form of a Treasury check with an approximate face value of \$5,337, which funds the defendant knew that he and others were not entitled to receive.

On or about February 9, 2012, within the Eastern District of Louisiana, defendant **DONALD STEWART** did knowingly transfer, possess, and use, without lawful authority, the means of identification of another person during and in relation to the offense of theft of public money in violation of 18 U.S.C. § 641, knowing that the means of identification belonged to an actual person, J.C.

Various records, including income tax returns, IRS filing records, bank records, audio recordings, and documents and tangible objects would be introduced at trial to prove the facts as set forth above. In addition, the testimony of employees and agents of the Internal Revenue

Service, and other competent witnesses would be introduced at trial to prove the facts set forth above.

APPROVED AND AGREED TO:



HAYDEN BROCKETT
Assistant United States Attorney

12/17/15
Date

CYNTHIA CIMINO, Esq.
LA Bar Roll No. _____
Attorney for Defendant STEWART

Date

DONALD STEWART
Defendant

Date