

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	<b>:</b>	<b>CRIMINAL NUMBER:</b> _____
<b>v.</b>	<b>:</b>	<b>DATE FILED:</b> _____
<b>MARTIN W. KENNEDY</b>	<b>:</b>	<b>VIOLATIONS:</b>
	<b>:</b>	<b>26 U.S.C. § 7206(2) (willfully aiding and</b>
	<b>:</b>	<b>abetting the preparation of materially</b>
	<b>:</b>	<b>false federal income tax returns – 9</b>
	<b>:</b>	<b>counts)</b>
	<b>:</b>	<b>18 U.S.C. § 641 (theft of government</b>
	<b>:</b>	<b>property – 5 counts)</b>
	<b>:</b>	<b>Notice of Forfeiture</b>

**INDICTMENT**

**COUNTS ONE THROUGH NINE**

**(Aiding and Assisting in the Preparation of False Tax Returns)**

**THE GRAND JURY CHARGES THAT:**

At all times material to this indictment:

1. The Internal Revenue Service was an agency within the United States Treasury Department. The Internal Revenue Service was responsible for, among other things, collecting federal income taxes on the world-wide income earned by individuals, corporations, trusts, and estates that were subject to federal taxation.

2. Individual tax filers, and other taxable entities, were required to voluntarily prepare and file federal income tax returns and schedules which accounted for their worldwide income, deductible expenses, and tax credits. In cases where tax filers and taxable entities were entitled to receive a tax refund, resulting from an overpayment of taxes, the Internal Revenue Service issued refund checks to the filers.

3. Tax filers had the option of allocating their refund to more than one bank account by completing, and filing with their tax returns, IRS Form 8888.

4. The United States Department of Veteran Affairs was an agency within the executive branch of the United States Government. Among the services and benefits offered to military service veterans, the United States Department of Veterans Affairs operated the nation's largest integrated health care system, with more than 1,700 hospitals, clinics, community living centers, readjustment counseling centers, and other facilities.

### **THE DEFENDANT**

5. Defendant MARTIN W. KENNEDY, an employee of the United States Department of Veterans' Affairs Hospital located in Coatesville, Pennsylvania, prepared approximately 176 federal income tax returns for other individuals, including his co-workers, during the years 2010 through 2013 which sought tax refunds of approximately \$610,526.

6. In addition to charging his co-workers a fee for preparing their tax returns, defendant MARTIN KENNEDY also prepared IRS Form 8888 which he electronically filed with the filers' tax returns.

7. Defendant MARTIN W. KENNEDY's purpose in preparing and filing IRS Form 8888, along with the filers' IRS Form 1040 and accompanying Schedules A and C, was to cause the Internal Revenue Service, to subdivide the filers' refund into two payments. One payment, as identified in Counts 10 through 14 of this indictment, was deposited into defendant **MARTIN W. KENNEDY's** personal bank account without the knowledge of the tax filers. The other payment was deposited into the filers' bank accounts.

8. The tax returns prepared by defendant MARTIN KENNEDY contained false financial information regarding the filers' Schedule C Business Expenses and the filers'

Schedule A Medical Expenses, Charitable Deductions and phantom losses from the sale of business property. The inflated deductions caused the Internal Revenue Service to issue tax refunds in the names of the filers for amounts larger than the amount the filers were entitled to receive.

9. On or about the dates listed for each count in the chart below, in the Eastern District of Pennsylvania, defendant

**MARTIN W. KENNEDY**

willfully aided, assisted in, procured, counseled, and advised the preparation and presentation to the Internal Revenue Service, of United States Individual Income Returns, Form 1040, accompanied by Schedules A and C and IRS Form 8888 for the filers identified in the chart below which were materially false, whereas, as defendant **MARTIN W. KENNEDY** then well knew and believed , the total deductions that he had listed on the returns for medical expenses, charitable contributions, and business losses had been inflated beyond the amount of deductions that the filers had actually incurred:

Count	Tax Filer's Initials and SSN	Date Return was filed	Character of Inflated Deductions Claimed
1	R.C./XXX-XX-2508	04/15/2011 (2010 Tax Return)	<u>Schedule A</u> : Medical Expense Deductions (\$9,137). <u>Schedule A</u> : Charitable Contributions (\$3,153).
2	R.C./XXX-XX-2508	04/15/2012 (2011 Tax Return)	<u>Schedule C</u> : Unreimbursed Business Expenses (\$12,212). <u>Schedule A</u> : Medical Expense Deductions (\$11,909). <u>Schedule A</u> : Charitable Contributions (\$4,350).

Count	Tax Filer's Initials and SSN	Date Return was filed	Character of Inflated Deductions Claimed
3	R.C./XXX-XX-2508	04/15/2013 (2012 Tax Return)	<u>Schedule C</u> : Unreimbursed Business Expenses (\$13,238). <u>Form 4794</u> : loss on sale of business property (\$10,838). <u>Schedule A: Medical Expense Deductions</u> (\$9,462). <u>Schedule A</u> : Charitable Contributions (\$2,115).
4	D.M./XXX-XX-3027	04/15/2012 (2011 Tax Return)	<u>Schedule C</u> : Unreimbursed Business Expenses (\$20,614). <u>Schedule A</u> : Medical Expense Deductions (\$9,114). <u>Schedule A</u> : Charitable Contributions (\$4,340).
5	D.M./XXX-XX-3027	04/15/2013 (2012 Tax Return)	<u>Schedule C</u> : Unreimbursed Business Expenses (\$13,293). <u>Schedule A</u> : Medical Expense Deductions (\$8,863). <u>Schedule A</u> : Charitable Contributions (\$4,900).
6	J.Y./XXX-XX-1306	04/15/2011 (2010 Tax Return)	<u>Schedule C</u> : Unreimbursed Business Expenses (\$15,634); <u>Schedule A</u> : Medical Expenses (\$5,189). <u>Schedule A</u> : Charitable Contributions (\$3,995).
7	J.Y./XXX-XX-1306	04/15/2012 (2011 Tax Return)	<u>Scheduled C</u> : Unreimbursed Business Expenses (\$6,857). <u>Form 4794</u> : loss from the sale of business property (\$4,502). <u>Schedule A</u> : Medical Expense Deductions (\$11,548); <u>Schedule A</u> : Charitable Contributions (\$4,810).

Count	Tax Filer's Initials and SSN	Date Return was filed	Character of Inflated Deductions Claimed
8	J.Y./XXX-XX-1306	04/15/2013 (2012 Tax Return)	<u>Schedule C</u> : Unreimbursed Business Expenses (\$9,898). <u>Form 4797</u> : Loss on Sale of Business Property (\$4,051); <u>Schedule A</u> : Medical Expense Deductions (\$11,395). <u>Schedule A</u> : Charitable Contributions (\$3,910).
9	J.Y./XXX-XX-1306	04/15/2014 (2013 Tax Return)	<u>Schedule C</u> : Unreimbursed Business Expenses (\$7,327). <u>Schedule A</u> : Medical Expense Deductions (\$12,908). <u>Schedule A</u> : Charitable Contributions (\$2,275).

All in violation of Title 26, United States Code, Section 7206(2).

**COUNTS TEN THROUGH FOURTEEN****THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraphs 1 through 8 of Count One are incorporated here.
2. On or about the dates listed in the chart below, at Philadelphia, in the Eastern

District of Pennsylvania and elsewhere, defendant

**MARTIN W. KENNEDY**

stole, purloined, and knowingly converted to his own use, a thing of value of the United States in an amount over \$1,000, that is, a federal tax refund check, which had come into the possession and under the care of defendant MARTIN W. KENNEDY arising from his preparation of federal income tax returns and IRS Form 8888 which generated tax refund checks, a portion of which defendant MARTIN W. KENNEDY caused to be deposited into his personal bank account in the amounts set forth in each of the counts listed in the following chart:

<b>Count</b>	<b>Tax Filer's Initials and SSN</b>	<b>Date Return Was Filed</b>	<b>Total Amount of Refund Issued In Name of Filer by the IRS</b>	<b>Amount of Refund stolen by Defendant</b>
10	R.C./xxx-xx-2508	04/15/2012	\$6,093	\$1,218
11	R.C./xxx-xx-2508	04/15/2013	\$6,843	\$2,700
12	J.Y./xxx-xx-1306	04/15/2011	\$ 6,737	\$1,300
13	J.Y./xxx-xx-1306	04/15/2012	\$7,121	\$1,600
14	J.Y./xxx-xx-1306	04/15/2013	\$7,486	\$2,150

All in violation of Title 18, United States Code, Section 641.

**NOTICE OF FORFEITURE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. As a result of the violations of Title 18, United States Code, Section 641, as set forth in paragraphs One through Eight of Count One of this indictment, defendant

**MARTIN W. KENNEDY**

shall forfeit to the United States all property, real or personal, involved in the commission of the offenses and all property traceable to such property.

2. The property to be forfeited includes, but is not limited to, a forfeiture money judgment in the amount of \$8,968 which represents the proceeds of the violations alleged in Counts Ten through Fourteen of this indictment.

3. If any of the property subject to forfeiture, as a result of any act of omission of the defendant:

- a. cannot be located upon the exercise of the due diligence;
- b. has been transferred to 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 subdivided without difficulty

it is the intent of the United States, pursuant to Title 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

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

**A TRUE BILL:**

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**GRAND JURY FOREPERSON**

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**ZANE DAVID MEMEGER  
UNITED STATES ATTORNEY**



**GJP**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

INDICTMENT

DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar. 16a-44

Address of Plaintiff: 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106-4476

Post Office: Philadelphia

County: Philadelphia

City and State of Defendant: Coatesville, PA

County: Chester, PA

Register number: N/A

Place of accident, incident, or transaction: Eastern District of Pennsylvania

Post Office: Coatesville

County: Chester, PA

RELATED CASE, IF ANY:

Criminal cases are deemed related when the answer to the following question is "yes".

Does this case involve a defendant or defendants alleged to have participated in the same action or transaction, or in the same series of acts or transactions, constituting an offense or offenses?

YES/NO: N/A

Case Number: N/A

Judge: N/A

CRIMINAL: (Criminal Category - FOR USE BY U.S. ATTORNEY ONLY)

1. ☐ Antitrust
2. ☒ Income Tax and other Tax Prosecutions
3. ☐ Commercial Mail Fraud
4. ☐ Controlled Substances
5. ☐ Violations of 18 U.S.C. Chapters 95 and 96 (Sections 1951-55 and 1961-68) and Mail Fraud other than commercial
6. ☐ General Criminal

(U.S. ATTORNEY WILL PLEASE DESIGNATE PARTICULAR CRIME AND STATUTE CHARGED TO BE VIOLATED AND STATE ANY PREVIOUS CRIMINAL NUMBER FOR SPEEDY TRIAL ACT TRACKING PURPOSES)

**26 U.S.C. § 7206(2) (willfully aiding and abetting the preparation of materially false federal income tax returns – 9 counts) 18 U.S.C. § 641 (theft of government property – 5 counts)**

**Notice of Forfeiture**

DATE: 2/9/16

Floyd J Miller

Assistant United States Attorney

File No. 2014R00515

U.S. v. Martin W. Kennedy