

2012R00540/DS

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Kevin McNulty
v. : Crim. No. 14-178
SIXTO RODRIGUEZ : 26 U.S.C. §§ 7206(1) & 7206(2)

SECOND SUPERSEDING INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Newark,
charges:

COUNTS ONE AND TWO
(Subscribing to False Tax Returns – 2007 and 2009)

1. At all times relevant to this Second Superseding Indictment:
 - a. Defendant SIXTO RODRIGUEZ (“defendant RODRIGUEZ”) was a resident of Teaneck, New Jersey. Defendant RODRIGUEZ operated a tax preparer business called “123 Taxes” as a sole proprietorship out of his residence.
 - b. United States taxpayers had an obligation to report to the Internal Revenue Service (“IRS”) on the Schedule C of a United States Individual Income Tax Return, Form 1040 (“Personal Tax Return”), all “gross receipts or sales” from businesses they operated as sole proprietorships. These gross receipts or sales were required to be reported on Line 1 of the Schedule C.

2. At various times relevant to this Second Superseding Indictment:

a. As a result of his work as a tax preparer, defendant RODRIGUEZ, through 123 Taxes, earned approximately \$237,179 in gross receipts or sales for tax year 2007, and approximately \$232,684 in gross receipts or sales for tax year 2009.

b. Notwithstanding the substantial gross receipts or sales that defendant RODRIGUEZ earned through 123 Taxes for tax years 2007 and 2009, defendant RODRIGUEZ reported gross receipts or sales of only approximately \$1,600 on the Schedule C of his Personal Tax Return for tax year 2007, and gross receipts or sales of only approximately \$9,780 on the Schedule C of his Personal Tax Return for tax year 2009.

c. Defendant RODRIGUEZ's Personal Tax Returns for tax years 2007 and 2009, therefore, were not true and correct as to every material matter in that, among other things, defendant RODRIGUEZ underreported and failed to report the gross receipts or sales of 123 Taxes on the Schedules C of his Personal Tax Returns.

d. Defendant RODRIGUEZ signed his Personal Tax Returns for tax years 2007 and 2009, and each contained a written declaration that it was signed under penalty of perjury.

3. On or about the dates set forth below, in the District of New Jersey and elsewhere, defendant

SIXTO RODRIGUEZ

did knowingly and willfully make and subscribe United States Individual Income Tax Returns, Forms 1040, for the tax years set forth below, each of

which was verified by a written declaration that it was made under penalty of perjury, and which defendant RODRIGUEZ did not believe to be true and correct as to every material matter in that each United States Individual Income Tax Return, Form 1040, Schedule C, did not include the gross receipts or sales he earned through 123 Taxes, and understated the amount of gross receipts or sales for each tax year as set forth below, each false tax return constituting a separate count of this Second Superseding Indictment:

Count	Date Subscribed	Tax Year	Gross Receipts or Sales Reported on Schedule C	Correct Gross Receipts or Sales (Approximate)
1	1/4/10	2007	\$1,600	\$237,179
2	3/21/10	2009	\$9,780	\$232,684

All in violation of Title 26, United States Code, Section 7206(1).

COUNT THREE
(Subscribing to a False Tax Return - 2008)

1. Paragraphs 1 and 2 of Counts One and Two of this Second Superseding Indictment are hereby repeated, realleged, and incorporated as if fully set forth herein.

2. At all times relevant to this Second Superseding Indictment:

a. United States taxpayers had an obligation to report to the IRS on the Schedule C of a Personal Tax Return income or loss from businesses they operated as sole proprietorships. This income or loss was required to be reported on Line 12 of the Personal Tax Return.

b. United States taxpayers had an obligation to report to the IRS on a Personal Tax Return their "total income," which was the sum of all income reported on Lines 7 through 21 of the Personal Tax Return, that is, all income received before application of deductions and related items. This total income was required to be reported on Line 22 of the Personal Tax Return.

3. At various times relevant to this Second Superseding Indictment:

a. As a result of his work as a tax preparer, defendant RODRIGUEZ, through 123 Taxes, earned approximately \$227,250 in gross receipts or sales for tax year 2008.

b. Notwithstanding the substantial gross receipts or sales that defendant RODRIGUEZ earned through 123 Taxes for tax year 2008, defendant RODRIGUEZ failed to file a Schedule C to his Personal Tax Return for 2008, failed to report any income on Line 12 of his Personal Tax Return for 2008, and

reported total income of only approximately \$34,097 on Line 22 of his Personal Tax Return for 2008.

c. Defendant RODRIGUEZ's Personal Tax Return for tax year 2008, therefore, was not true and correct as to every material matter in that, among other things, defendant RODRIGUEZ underreported and failed to report gross receipts or sales and additional income on a Schedule C or on Lines 12 or 22.

d. Defendant RODRIGUEZ signed his Personal Tax Return for tax year 2008, and it contained a written declaration that it was signed under penalties of perjury.

4. On or about January 1, 2010, in the District of New Jersey and elsewhere, defendant

SIXTO RODRIGUEZ

did knowingly and willfully make and subscribe a United States Individual Income Tax Return, Form 1040, for tax year 2008, which was verified by a written declaration that it was made under penalty of perjury, and which defendant RODRIGUEZ did not believe to be true and correct as to every material matter in that the United States Individual Income Tax Return, Form 1040, underreported and failed to report gross receipts or sales and additional income on a Schedule C and on Lines 12 and 22, as described in paragraph 3.

All in violation of Title 26, United States Code, Section 7206(1).

COUNTS FOUR THROUGH EIGHTEEN
(Aiding the Filing of False Tax Returns)

1. Paragraphs 1 and 2 of Counts One and Two of this Second Superseding Indictment, and paragraphs 2 and 3 of Count Three of this Second Superseding Indictment, are hereby repeated, realleged, and incorporated as if fully set forth herein.

2. At all times relevant to this Second Superseding Indictment:

a. United States taxpayers had an obligation to report to the IRS on an Education Credits, Form 8863, all education credits, which were based on educational expenses paid to postsecondary educational institutions. These education credits were required to be reported on, for tax year 2008, Line 50 of the Personal Tax Return, and for tax years 2009, 2010, and 2011, Line 49 of the Personal Tax Return.

b. United States taxpayers had an obligation to report to the IRS on the Schedule A of a Personal Tax Return all itemized deductions, such as medical and dental expenses and home mortgage interest. These itemized deductions were required to be reported on Line 40 of the Personal Tax Return.

c. United States taxpayers had an obligation to report to the IRS on the Schedule E of a Personal Tax Return income or loss from rental real estate, partnerships, and similar entities. This income was required to be reported on Line 17 of the Personal Tax Return.

3. At various times relevant to this Second Superseding Indictment:

a. Defendant RODRIGUEZ prepared federal income tax returns for his taxpayer-clients, and fabricated and inflated education credits,

Schedule A itemized deductions, Schedule C business expenses and losses, and Schedule E rental real estate losses.

b. By doing so, defendant RODRIGUEZ caused a number of his taxpayer-clients to reduce their tax liabilities and obligations, and to claim tax refunds to which they were not entitled.

4. On or before the dates set forth below, in the District of New Jersey, and elsewhere, defendant

SIXTO RODRIGUEZ

did knowingly and willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the IRS of United States Individual Income Tax Returns, Forms 1040, for the individuals and tax years identified below, which returns were false and fraudulent as to material matters in that, as described in paragraph 3, defendant RODRIGUEZ then and there knew that the individuals were not entitled to claim tax refunds in the amounts set forth below, each false tax return constituting a separate count of this Second Superseding Indictment:

Count	Filed On or About	Tax Year	Taxpayer	Approximate False Refund Claim
4	4/13/12	2011	Taxpayer 1	\$2,374
6	4/15/10	2009	Taxpayers 2 and 3	\$8,652
7	4/15/11	2010	Taxpayers 2 and 3	\$9,123
8	4/17/12	2011	Taxpayers 2 and 3	\$8,725
9	4/15/09	2008	Taxpayers 4 and 5	\$9,123
10	4/15/10	2009	Taxpayers 4 and 5	\$9,216
11	4/15/11	2010	Taxpayers 4 and 5	\$9,117
12	4/17/12	2011	Taxpayers 4 and 5	\$5,309
13	4/15/10	2009	Taxpayer 6	\$4,334

14	4/15/11	2010	Taxpayer 6	\$4,310
15	4/17/12	2011	Taxpayer 6	\$3,891
16	4/15/10	2009	Taxpayer 7	\$7,024
17	4/15/11	2010	Taxpayer 7	\$4,820
18	4/17/12	2011	Taxpayer 7	\$4,879

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

A TRUE BILL



FOREPERSON

A handwritten signature in cursive script that reads "Paul J. Fishman".

PAUL J. FISHMAN
United States Attorney

CASE NUMBER: 14-Cr-178 (KM)

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

SIXTO RODRIGUEZ

SECOND SUPERSEDING INDICTMENT FOR

26 U.S.C. §§ 7206(1) & 7206(2)

A True Bill


Foreperson

PAUL J. FISHMAN
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NEWARK, NEW JERSEY*

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