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EASTERN DISTRICT OF CALIFORNIA
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1 PHILLIP A. TALBERT
United States Attorney
2 MEGAN A. S. RICHARDS
Assistant United States Attorney
3 2500 Tulare Street, Suite 4401
Fresno, CA 93721
4 Telephone: (559) 497-4000
Facsimile: (559) 497-4099
5

6 Attorneys for Plaintiff
United States of America
7

8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 v.
13 MARCELA HEREDIA,
14 Defendants.
15

CASE NO. 1:17 CR 00090 LJO SKO
VIOLATIONS: 18 U.S.C. § 1343 – WIRE FRAUD
(7 COUNTS); 18 U.S.C. § 1028A – AGGRAVATED
IDENTITY THEFT (4 COUNTS); 26 U.S.C.
§ 7206(1) - MAKING AND SUBSCRIBING A
FALSE RETURN, STATEMENT, OR OTHER
DOCUMENT; CRIMINAL FORFEITURE

16
17 INDICTMENT

18 I. INTRODUCTION

19 1. At all times relevant to this Indictment, defendant MARCELA HEREDIA resided in
20 Fresno, California, in the State and Eastern District of California.

21 2. At all times relevant to this Indictment, defendant MARCELA HEREDIA worked as a
22 Tax Examiner at the Internal Revenue Service (IRS), located in Fresno, California. As a Tax Examiner,
23 HEREDIA manually reviewed and edited paper tax returns to ensure they were complete.

24 3. From approximately January 9, 2009, until February 4, 2014, defendant HEREDIA also
25 worked at the Transitional Living Center (TLC) in Fresno, California as a Youth Care Specialist.
26 HEREDIA generally worked the overnight shift. The TLC was a residential home for homeless young
27 adults operated by the Fresno Economic Opportunity Commission (FEOC). Many of the residents of
28 TLC were former foster children who recently reached the age of majority. TLC provided living

1 accommodations and offered life skills and career training for its residents.

2 4. In order to stay at TLC, residents were required to give personal identifying information
3 to TLC, including their name and social security number. TLC maintained this information in client
4 files that it kept at the group home.

5 5. At all times relevant to this Indictment, the Department of the Treasury was a department
6 of the United States responsible for, among other things, disbursement of payments to the public and
7 collection of revenue. The IRS was an agency of the United States that was responsible for enforcing
8 and administering the tax laws of the United States.

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10 COUNTS ONE THROUGH SEVEN: [18 U.S.C. § 1343 – Wire Fraud]

11 The Grand Jury charges:

12 MARCELA HEREDIA,

13 defendant herein, as follows:

14 II. SCHEME TO DEFRAUD

15 6. Beginning on a date unknown to the Grand Jury, but not later than in or about February
16 2011, and continuing to and including September 19, 2013, in the State and Eastern District of
17 California and elsewhere, defendant MARCELA HEREDIA knowingly devised, intended to devise,
18 participated in, and executed a material scheme and artifice to defraud the IRS, an agency of the United
19 States, and current and former residents of the FEOC TLC and others, and to obtain money and property
20 from the United States by means of materially false and fraudulent pretenses, representations, promises,
21 and omissions.

22 III. MANNER AND MEANS

23 7. During the above-described time period, the defendant executed the scheme and artifice
24 to defraud by the following manner, means, and acts:

25 8. Defendant MARCELA HEREDIA used her positions at IRS and TLC to gain the trust of
26 residents of TLC. HEREDIA informed residents of TLC that she was an employee of the IRS and that
27 she would help them by preparing their Individual Income Tax Returns (hereinafter “tax returns”).
28 Knowing that HEREDIA worked for the IRS, some residents of TLC entrusted to the defendant their

1 personal identifying information, including their full names and social security numbers, so that
2 HEREDIA could prepare their tax returns.

3 9. Rather than completing the tax returns as agreed, defendant HEREDIA reported to the
4 individuals that they did not make enough money to file a tax return. HEREDIA then went on to file tax
5 returns on their behalf without their knowledge.

6 10. Defendant HEREDIA's position at TLC also gave her access to current and prior resident
7 files. The resident files contained each person's personal identifying information, including their names
8 and social security numbers.

9 11. On multiple occasions, HEREDIA used her access to resident files to view and use the
10 personal identifying information of current or former residents of TLC without the residents' permission
11 or authorization from TLC. Defendant HEREDIA used current and former TLC residents' full names
12 and social security numbers to prepare false tax returns.

13 12. Defendant HEREDIA submitted the tax returns she prepared to the IRS electronically
14 through the use of computer-based tax preparation software.

15 13. Defendant HEREDIA completed each of the tax returns with the intent to cause the IRS
16 to generate a refund. On the tax returns, HEREDIA selected the direct deposit option, indicating to the
17 IRS that it should electronically transfer the refund to the account indicated on the return. For each of
18 the returns that the defendant submitted, she indicated that the IRS should remit the refund to accounts
19 that she controlled, including but not limited to her personal bank account at Citibank, ending in account
20 number 7732.

21 14. Defendant HEREDIA did not notify the purported taxpayers that she had filed tax returns
22 in their name, and when the defendant obtained refunds from the IRS for the purported taxpayers, she
23 did not notify the taxpayers of the refund and did not distribute any of the refund to them.

24 15. Defendant HEREDIA submitted each false tax return electronically from Fresno,
25 California. The tax returns electronically filed with the IRS by the defendant were routed interstate via
26 wire communication through Martinsburg, West Virginia and/or Memphis, Tennessee and sent to the
27 IRS Service Center in Fresno, State and Eastern District of California.

28 16. The tax returns that defendant HEREDIA submitted to the IRS using the misappropriated

1 identities and personal identifying information of the TLC residents included additional false and
2 fraudulent representations, including but not limited to the following:

3 a. The tax returns listed false employers and wages that the purported taxpayers had
4 never earned.

5 b. Some of the tax returns listed Schedule C businesses purported to be operated by
6 the taxpayers. In reality, the taxpayers operated no such businesses.

7 c. The tax returns listed education expenses that the purported taxpayers never
8 incurred.

9 d. The tax returns listed certain TLC residents as dependents of other TLC residents
10 whereas, in reality, the taxpayer and purported dependent did not know each other. For example,
11 defendant listed former TLC resident L.L., along with her full name and social security number,
12 as a dependent on the tax return of former TLC resident D.G. L.L. was not a dependent of D.G.
13 and the two individuals do not know each other.

14 e. Defendant HEREDIA did not have permission to file the tax returns or to obtain
15 any resulting refund. Whether the taxpayer has authorized a return to be filed is material to the
16 IRS's decision to accept a tax return and issue a resulting refund. The IRS does not accept a
17 refund that it knows to be filed without authorization of the purported taxpayer.

18 f. Furthermore, if the IRS had known that the tax returns contained material false
19 statements, such as false employers, false education expenses, false wages, and false dependents,
20 it likewise would not have accepted the tax returns and would not have issued any resulting
21 refund.

22 g. In the tax returns that she submitted, defendant HEREDIA falsely claimed more
23 than \$20,000 in tax refunds.

24 IV. USE OF WIRES

25 17. On or about the dates listed below, in the State and Eastern District of California, for the
26 purposes of executing the aforementioned scheme and artifice to defraud, defendant MARCELA
27 HEREDIA did knowingly transmit and cause to be transmitted by means of wire and radio
28 communication in interstate and foreign commerce the following writings, signs, signals, pictures, and

1 sounds, as follows:

<u>Count</u>	<u>Date of Wire</u>	<u>Description</u>
2 One	9/20/2012	Wire transmission to IRS of electronically filed 2011 U.S. Individual Income 3 Tax Return-Form 1040 for D.G.
4 Two	9/25/2012	Wire transmission to IRS of electronically filed 2011 U.S. Individual Income 5 Tax Return Form 1040 for L.L.
6 Three	7/9/2013	Wire transmission to IRS of electronically filed 2012 U.S. Individual Income 7 Tax Return Form 1040A for C.C.
8 Four	7/11/2013	Wire transmission to IRS of electronically filed 2012 U.S. Individual Income 9 Tax Return Form 1040 for D.G. 2012 tax return
10 Five	9/18/2013	Wire transmission to IRS of electronically filed 2012 U.S. Individual Income 11 Tax Return Form 1040A for M.J.G./M.J.L. (first attempt)
12 Six	9/19/2013	Wire transmission to IRS of electronically filed 2012 U.S. Individual Income 13 Tax Return Form 1040A for M.J.G./M.J.L (second attempt)
14 Seven	9/19/2013	Wire transmission to IRS of electronically filed 2012 U.S. Individual Income 15 Tax Return Form 1040A for M.J.G./M.J.L (third attempt)

16 All in violation of Title 18, United States Code, Section 1343.

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20 COUNTS EIGHT THROUGH ELEVEN: [18 U.S.C. § 1028A(a)(1) – Aggravated Identity Theft]

21 The Grand Jury further charges:

22 MARCELA HEREDIA,

23 defendant herein, as follows:

24 18. The Grand Jury re-alleges and incorporates by reference the allegations set forth in
25 paragraphs 1 through 17 of this Indictment.

26 19. On or about the dates set forth below, in the State and Eastern District of California and
27 elsewhere, defendant MARCELA HEREDIA did knowingly use a means of identification of another
28 person without lawful authority during and in relation to an unlawful activity that constitutes a violation

of federal law, to wit, Wire Fraud, in violation of 18 U.S.C. § 1343; that is, she knowingly used the means of identification of another person, including but not limited to the names and social security numbers of the actual persons, identified by their initials below, to submit false and fraudulent tax returns to the IRS by interstate wire communication:

<u>Count</u>	<u>Date</u>	<u>Actual Person</u>	<u>Document</u>	<u>Corresponding Indictment Count(s)</u>
8	9/25/2012	L.L.	2011 U.S. Individual Income Tax Return- Form 1040 for L.L.	2
9	7/9/2013	C.C.	2012 Individual Income Tax Return Form 1040A for C.C.	3
10	7/11/2013	D.G.	2012 Individual Income Tax Return Form 1040 for D.G.	4
11	9/18/2013	M.J.G./M.J.L.	2012 Individual Income Tax Return Form 1040A for M.J.G./M.J.L	5-7

All in violation of Title 18, United States Code, Section 1028A(a)(1).

COUNT TWELVE: [26 U.S.C. § 7206(1) – Making and Subscribing a False Return, Statement, or Other Document]

The Grand Jury further charges:

MARCELA HEREDIA,

20. The Grand Jury re-alleges and incorporates by reference the allegations set forth in paragraphs 1 through 17 of this Indictment.

21. On or about January 5, 2012, in Fresno County, State and Eastern District of California, defendant HEREDIA, did willfully make and subscribe a Form 1040A U.S. Individual Income Tax Return, for tax year 2011, which was verified by a written declaration that it was made under the penalties of perjury and which she did not believe to be true and correct as to every material matter. That income tax return, which was filed with the Internal Revenue Service, reported C.C. as a disabled

1 dependent who lived with HEREDIA during the entirety of the tax year, whereas defendant HEREDIA
2 then and there well knew and believed, C.C. was not her niece, was not her dependent, and was not
3 disabled. Furthermore, defendant HEREDIA reported a total income in the amount of \$26,583,
4 whereas, as she then and there well knew and believed, she received total income in addition to the
5 amount stated in the return.

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

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9 FORFEITURE ALLEGATION: [18 U.S.C. § 981(a)(1)(C), 28 U.S.C. § 2461(c), and 18 U.S.C.
§ 982(a)(1) – Criminal Forfeiture]

10 22. Upon conviction of one or more of the offenses alleged in Counts One through Eleven of
11 this Indictment, defendant MARCELA HEREDIA shall forfeit to the United States, pursuant to 18,
12 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), all property, real and personal, which constitutes or is
13 derived from proceeds traceable to such violations, including, but not limited to:

14 a. A sum of money equal to the amount of proceeds traceable to such offenses, for
15 which defendant is convicted.

16 23. If any property subject to forfeiture as a result of the Offenses alleged in Counts One
17 through Eleven of this Indictment:

- 18 a. Cannot be located upon the exercise of due diligence;
19 b. Has been transferred or sold to, or deposited with, a third party;
20 c. Has been placed beyond the jurisdiction of the court;
21 d. Has been substantially diminished in value; or
22 e. Has been commingled with other property which cannot be divided without
23 difficulty;

24 it is the intent of the United States, pursuant to 28 U.S.C. § 2461(c), incorporating 21 U.S.C. § 853(p), to
25 seek forfeiture of any other property of said defendant up to the value of the property subject to

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1 forfeiture.

2 A TRUE BILL.

3 **/s/ Signature on file w/AUSA**

4 FOREPERSON

5 PHILLIP A. TALBERT

6 United States Attorney

KIRK E. SHERRIFF

7 KIRK E. SHERRIFF

8 Assistant United States Attorney

9 Chief, Fresno Office

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