

Approved: Daniel Richenthal  
DANIEL C. RICHENTHAL  
SARAH R. KRISOFF  
Assistant United States Attorneys

Before: THE HONORABLE JAMES L. COTT  
United States Magistrate Judge  
Southern District of New York

15 MAG 0044

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UNITED STATES OF AMERICA :  
:  
- v. - :  
:  
NOEL CUELLO, :  
LUZ C. RICARDO, :  
a/k/a "Lucy," :  
FRANCISCO ABREU, :  
a/k/a "Seyayin," :  
ARISMENDY CUELLO, :  
a/k/a "Cheito," :  
JONATHAN ORBE, :  
a/k/a "Jigga," :  
CATHERINE RICART, :  
a/k/a "Cathy," and :  
JOEL VARGAS, :  
:  
Defendants. :  
:  
----- X

SEALED COMPLAINT  
Violations of  
18 U.S.C. §§ 286, 1349, and  
1028A; and 26 U.S.C.  
§ 7206(1)  
COUNTY OF OFFENSE:  
BRONX

SOUTHERN DISTRICT OF NEW YORK, ss.:

KAREN FLANAGAN, being duly sworn, deposes and says that she is a Special Agent with the Internal Revenue Service-Criminal Investigation ("IRS-CI"), and charges as follows:

COUNT ONE

(Conspiracy to Defraud the United States with Respect to Claims)

1. From at least in or about 2009 up to and including at least in or about Spring 2014, in the Southern District of New York and elsewhere, NOEL CUELLO, LUZ C. RICARDO, a/k/a "Lucy," FRANCISCO ABREU, a/k/a "Seyayin," ARISMENDY CUELLO, a/k/a "Cheito," JONATHAN ORBE, a/k/a "Jigga," CATHERINE RICART, a/k/a "Cathy," and JOEL VARGAS, the defendants, and others known and unknown, knowingly

did enter into an agreement, combination, and conspiracy with others and each other to defraud the United States and a department and agency thereof, to wit, the Internal Revenue Service ("IRS"), by obtaining and aiding to obtain the payment and allowance of false, fictitious, and fraudulent claims.

(Title 18, United States Code, Section 286.)

COUNT TWO

(Conspiracy to Commit Wire Fraud)

2. From at least in or about 2009 up to and including at least in or about Spring 2014, in the Southern District of New York and elsewhere, NOEL CUELLO, LUZ C. RICARDO, a/k/a "Lucy," FRANCISCO ABREU, a/k/a "Seyayin," ARISMENDY CUELLO, a/k/a "Cheito," JONATHAN ORBE, a/k/a "Jigga," CATHERINE RICART, a/k/a "Cathy," and JOEL VARGAS, the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other, to violate Title 18, United States Code, Section 1343.

3. It was a part and an object of the conspiracy that NOEL CUELLO, LUZ C. RICARDO, a/k/a "Lucy," FRANCISCO ABREU, a/k/a "Seyayin," ARISMENDY CUELLO, a/k/a "Cheito," JONATHAN ORBE, a/k/a "Jigga," CATHERINE RICART, a/k/a "Cathy," and JOEL VARGAS, the defendants, and others known and unknown, 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, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice to defraud.

(Title 18, United States Code, Section 1349.)

COUNT THREE

(Aggravated Identity Theft)

4. From at least in or about 2009 up to and including at least in or about Spring 2014, in the Southern District of New York and elsewhere, NOEL CUELLO, LUZ C. RICARDO, a/k/a "Lucy," FRANCISCO ABREU, a/k/a "Seyayin," ARISMENDY CUELLO, a/k/a "Cheito," JONATHAN ORBE, a/k/a "Jigga," CATHERINE RICART, a/k/a "Cathy," and JOEL VARGAS, the defendants, willfully and knowingly did transfer, possess, and use, without lawful authority, a means of identification

of another person, during and in relation to a felony violation enumerated in Section 1028A(c), to wit, the defendants used and assisted others to use the names and personal identifying information, including Social Security Numbers, of other persons during and in relation to the offense charged in Count Two of this Complaint.

(Title 18, United States Code, Sections 1028A and 2.)

COUNTS FOUR AND FIVE  
(Subscribing to a False Return)  
(as to LUZ C. RICARDO)

5. On or about the dates set forth below, in the Southern District of New York and elsewhere, LUZ C. RICARDO, a/k/a "Lucy," 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 return contained and was verified by the written declaration of RICARDO that it was made under penalties of perjury, and which return RICARDO did not believe to be true and correct as to every material matter, in that RICARDO falsely stated that she had at least one dependent for whom she could claim a tax credit, whereas, as RICARDO then and there well knew, she did not have the listed dependent, as detailed below:

Count	Tax Year	Approximate Filing Date of Return	Initials of Dependent
4	2009	May 24, 2010	G.A.
5	2010	August 29, 2011	G.A.

(Title 26, United States Code, Section 7206(1).)

COUNTS SIX THROUGH EIGHT  
(Subscribing to a False Return)  
(as to ARISMENDY CUELLO)

6. On or about the dates set forth below, in the Southern District of New York and elsewhere, ARISMENDY CUELLO, a/k/a "Cheito," 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 return contained and was verified by the written declaration of ARISMENDY CUELLO that it was made under penalties of perjury, and which return CUELLO did not believe to be true and correct as to every material matter, in that ARISMENDY CUELLO falsely stated that he had at least one dependent for whom he could claim

a tax credit, whereas, as ARISMENDY CUELLO then and there well knew, he did not have the listed dependent(s), as detailed below:

Count	Tax Year	Approximate Filing Date of Return	Initials of Dependent(s)
Six	2008	February 23, 2009	K.A.
Seven	2009	February 22, 2010	K.A.
Eight	2010	February 14, 2011	K.A. and A.F.

(Title 26, United States Code, Section 7206(1).)

COUNTS NINE AND TEN  
(Subscribing to a False Return)  
(as to JONATHAN ORBE)

7. On or about the dates set forth below, in the Southern District of New York and elsewhere, JONATHAN ORBE, a/k/a "Jigga," 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 return contained and was verified by the written declaration of ORBE that it was made under penalties of perjury, and which return ORBE did not believe to be true and correct as to every material matter, in that ORBE falsely stated that he had at least one dependent for whom he could claim a tax credit, whereas, as ORBE then and there well knew, he did not have the listed dependent, as detailed below:

Count	Tax Year	Approximate Filing Date of Return	Initials of Dependent
Nine	2011	February 13, 2012	K.R.
Ten	2012	March 11, 2013	K.R.

(Title 26, United States Code, Section 7206(1).)

COUNTS ELEVEN THROUGH FIFTEEN  
(Subscribing to a False Return)  
(as to CATHERINE RICART)

8. On or about the dates set forth below, in the Southern District of New York and elsewhere, CATHERINE RICART, a/k/a "Cathy," 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 return contained and was verified by the written declaration of RICART that it was made under penalties of perjury, and which return RICART did not believe to be true and correct as to every material matter, in that RICART falsely stated that she had at least one dependent for whom she could claim a tax credit, whereas, as RICART then and there well knew, she did not have the listed dependent(s), as detailed below:

Count	Tax Year	Approximate Filing Date of Return	Initials of Dependent(s)
Eleven	2008	February 16, 2009	E.M.-1
Twelve	2009	January 23, 2010	E.P. and G.R.
Thirteen	2010	February 14, 2011	E.M.-2
Fourteen	2011	February 20, 2012	E.M.-2
Fifteen	2012	March 11, 2013	E.M.-2

(Title 26, United States Code, Section 7206(1).)

COUNTS SIXTEEN AND SEVENTEEN  
(Subscribing to a False Return)  
(as to JOEL VARGAS)

9. On or about the dates set forth below, in the Southern District of New York and elsewhere, JOEL VARGAS, 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 return contained and was verified by the written declaration of VARGAS that it was made under penalties of perjury, and which return VARGAS did not believe to be true and correct as to every material matter, in that VARGAS falsely stated that he had at least one dependent for whom he could claim a tax credit, whereas, as VARGAS then and there well knew, he did not have the listed dependent, as detailed below:

Count	Tax Year	Approximate Filing Date of Return	Initials of Dependent
Sixteen	2009	February 22, 2010	D.A.
Seventeen	2010	February 14, 2011	D.A.

(Title 26, United States Code, Section 7206(1).)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

10. I have been a Special Agent with IRS-CI for approximately five years. Before serving as a Special Agent, I worked as a Revenue Officer with the Internal Revenue Service ("IRS") for approximately fourteen years. Through my training and experience, I have become familiar with the manner in which federal individual income tax returns ("tax returns" or "returns") are prepared and filed, common deductions or credits that individual taxpayers may claim on returns, various schemes in which individuals may fraudulently seek to increase the refunds paid to them by the United States Treasury, and indicia that a tax return or set of tax returns may have been prepared as part of such a scheme. As a Special Agent, I have, among other things, participated in surveillance, the introduction of undercover agents, debriefings of cooperating witnesses, interviews, and the execution of search warrants, including search warrants involving electronic evidence.

11. I have participated in the investigation of this matter, and I am familiar with the information contained in this affidavit based on my own personal participation in the investigation, my review of documents, recordings, and conversations that I have had with other law enforcement officers and other individuals. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents, and the actions and statements of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

## SUMMARY OF THE SCHEME

12. As described more fully herein, the investigation by IRS-CI, the New York City Department of Investigation ("DOI"), and the Social Security Administration, Office of Inspector General, has revealed that the defendants engaged in a large-scale identity theft and tax fraud scheme through which (a) identifying information of minors, including names, dates of birth, and Social Security Numbers, was obtained, including through payments to a corrupt New York City employee, and (b) the identifying information was then used to file thousands of fraudulent tax returns, resulting in millions of dollars in estimated loss to the United States Treasury. In sum, through a tax preparation business in the Bronx, New York, with multiple locations, the defendants, assisted by co-conspirators, charged individual taxpayers a cash fee, on top of a tax preparation charge, in return for which the business would prepare and file tax returns that falsely claimed that the individual taxpayer had one or more minor dependents, to take fraudulent advantage of at least one tax credit, thereby inflating the refund paid to the taxpayer.

13. The tax preparation business was principally operated by NOEL CUELLO and LUZ C. RICARDO, a/k/a "Lucy," the defendants, with the assistance of ARISMENDY CUELLO, a/k/a "Cheito," JONATHAN ORBE, a/k/a "Jigga," CATHERINE RICART, a/k/a "Cathy," and JOEL VARGAS, the defendants. FRANCISCO ABREU, a/k/a "Seyayin, the defendant, at the time a fraud investigator with the New York City Human Resources Administration, sold identifying information of minors to be used in the scheme. The scheme continued even after IRS-CI executed multiple search warrants on the business, with ORBE claiming to have purchased the business from NOEL CUELLO, and ORBE and RICART establishing new electronic filer accounts with the IRS, and opening new bank accounts, which were used to continue the scheme.

## BACKGROUND

14. Based on my training and experience, my review of IRS documents, and my conversations with others in the IRS, I have learned, in substance and in part, the following:

a. Under federal law, individual taxpayers (or married taxpayers filing jointly) may be entitled to claim certain tax credits. There are a number of such credits, including credits for education and other activities. In order to qualify for such credits, the taxpayer must have engaged in certain conduct and/or incurred certain expenses. A taxpayer must also typically meet certain rules, such as a maximum level of income. Unlike a tax deduction, a tax credit does not reduce the taxable income of a taxpayer. Rather, it operates as a direct credit, and can result in a tax refund when the amount of the credit exceeds the amount of tax that a taxpayer would otherwise owe. The resulting refund can be thousands of dollars.

b. One tax credit available to certain taxpayers is the Earned Income Tax Credit (the "EITC"). The EITC is a refundable federal income tax credit for low to moderate income working individuals and families. When the EITC exceeds the amount of taxes owed by an individual, it results in a tax refund, paid out of the United States Treasury, to those who claim and qualify for the credit. To qualify for the EITC, an individual must have earned income from employment, self-employment or another source and meet certain rules--that is, a person must have earned income that would otherwise be subject to taxation. The individual must also either meet the additional rules for workers without a qualifying child or have a child that meets all the qualifying child rules (in general terms, a child who is a dependent of the taxpayer). If the individual claims the EITC based on having a qualifying child, the individual must list the name and Social Security Number ("SSN") of the child on his or her tax return, along with completing a separate schedule that contains the child's name, SSN, year of birth, relationship to the taxpayer, and how many months the child lived with the taxpayer during the tax year.

c. The EITC can result in a taxpayer receiving a refund of thousands of dollars when he or she would otherwise receive a much smaller refund, or no refund.

d. There are various ways in which a taxpayer may have a tax return prepared and then submitted to the IRS. One such way is for the individual taxpayer to seek the assistance of a tax



preparation business. Typically, such businesses charge a flat fee for the service of preparing and submitting the return. The submission may be and often is done electronically.

e. In order for a tax preparer to submit a return electronically, it generally must have two numeric numbers--an Electronic Filer Identification Number ("EFIN") and a Preparer Tax Identification Number ("PTIN"). An EFIN is a number issued by the IRS to individuals or firms that have been approved as authorized IRS "e-file" providers. It is included with all electronic return data transmitted to the IRS. A PTIN is a number issued by the IRS to paid tax return preparers. It is used as the tax return preparer's identification number and, when applicable, must be placed in the "Paid Preparer" section of a tax return that the tax return preparer prepared for compensation.

f. To receive an EFIN, an individual must submit an application to the IRS containing, among other things, the applicant's SSN or employer identification number ("EIN"), the business name (if any), and the business address (not the applicant's personal address). If the applicant is not a certified public accountant, an attorney, or an enrolled agent, the application must also include the applicant's fingerprints.

g. An EFIN is not permitted to be transferred from one provider to another.

h. By reviewing the returns filed under a particular EFIN or PTIN, one can determine whether returns filed by a particular tax preparation business or individual tax preparer follow a discernible pattern, including a pattern that may be indicative of fraud. For example, if a very high percentage of returns result in a refund (particularly a refund of thousands of dollars), that may indicate that at least some returns contain deductions or credits to which the taxpayer is not entitled. This is so because, at the end of a given tax year, some taxpayers are owed large refunds, some are owed small refunds, and some are not owed refunds at all. Returns submitted by a given tax preparation business or tax preparer, if a meaningful volume of returns are submitted, would be expected to be consistent with this fact.

## OPENING OF THE INVESTIGATION

15. From my participation in the investigation and my conversations with other law enforcement officers, I have learned that, in or about summer 2011, a cooperating witness ("CW-1")<sup>1</sup> informed law enforcement of the following, in substance and in part:

a. CW-1 was introduced by JOEL VARGAS, the defendant, to a certain tax preparation business in the Bronx, New York, "N&L Income Tax," subsequently identified as a business that appears to have used the names and/or corporate entities N&L Enterprise Income Tax Service; N and L Enterprise; N & L Enterprise Inc.; N&L Enterprise; N L Enterprise; N and L Enterprise Corp.; NL Serve Corp; L & N Service Corp.; L&N Service Corp; LN Services Corp; L N Service Corp; LN Services; LN Services Corporation; and Harlequin Inc. (collectively, "N&L"), which, for a cash fee, fraudulently added to one's tax return one or more minor dependents, so as to take advantage of the EITC.

b. Starting in or about 2010, CW-1 brought several individuals to N&L to avail themselves of this illegal service. In return for each customer that CW-1 brought to N&L, CW-1 was paid cash by VARGAS.

16. Based on information provided by CW-1, as discussed further below, an investigation was opened into N&L, and related persons and entities.

### SUMMARY OF INTERVIEWS OF CERTAIN COOPERATING WITNESSES

17. I have participated in interviews of certain cooperating witnesses ("CW-2" and "CW-3") each of whom has pleaded guilty, pursuant to a cooperation agreement, to, among other things, offenses arising out of his or her participation in the scheme described herein, and each of whom is cooperating with the Government in the hope of obtaining leniency with respect to sentencing. The information provided by these cooperating witnesses has proven reliable, and has been corroborated in multiple ways, including through the review of records, interviews, and surveillance, as discussed herein.

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<sup>1</sup> From my interviews of CW-1, I learned, in substance and in part, that CW-1 agreed to meet and work with law enforcement in the hope of receiving leniency with respect to then-pending state charges (arising from conduct unrelated to the investigation discussed herein) and avoiding federal charges. CW-1's information proved reliable and was corroborated by other individuals and evidence.

18. Based on my participation in interviews of CW-2, my review of notes and/or memoranda of those interviews, and my conversations with others participating in those interviews, I have learned the following, in substance and in part:

a. CW-2 met NOEL CUELLO, the defendant, by at least in or about 2009. Thereafter, CW-2 began bringing individuals to the business referred to herein as N&L to avail themselves of a scheme in which individual taxpayers paid extra to have one or more minors falsely listed as dependents on tax returns. In return for each such taxpayer whom CW-2 brought to N&L, CW-2 was paid by NOEL CUELLO, the defendant. Individual taxpayers were generally charged approximately \$1,200 for each false dependent to be added to their return, on top of a tax preparation fee of approximately \$400.

b. At NOEL CUELLO's request, CW-2 recruited others to bring individual taxpayers to N&L to avail themselves of the scheme. One such other was JOEL VARGAS, the defendant.

c. LUZ C. RICARDO, a/k/a "Lucy," ARISMENDY CUELLO, a/k/a "Cheito," JONATHAN ORBE, a/k/a "Jigga," and CATHERINE RICART, a/k/a "Cathy," the defendants, along with NOEL CUELLO, participated in the scheme.

d. NOEL CUELLO, RICARDO, and ARISMENDY CUELLO, among other things, prepared and/or filed fraudulent returns, or assisted in the preparing and/or filing of fraudulent returns.

e. ARISMENDY CUELLO, ORBE, and RICART, among other things, brought individual taxpayers to N&L to take advantage of the scheme.

f. FRANCISCO ABREU, the defendant, brought lists of minors to N&L to use in the scheme. On more than one occasion, CW-2 saw ABREU come into N&L with typed lists containing children's names, dates of birth, and/or SSNs. NOEL CUELLO told CW-2 that NOEL CUELLO paid ABREU more than \$50,000 each tax season, and CW-2 saw NOEL CUELLO hand ABREU cash on at least one occasion.

g. After IRS-CI first came to N&L's office, NOEL CUELLO put the tax business under the names of ORBE and RICART.

h. In or about the beginning of the tax season in calendar year 2013 (which was the first tax season following the execution of the First Search Warrants), NOEL CUELLO held a meeting at N&L. RICARDO, ARISMENDY CUELLO, ORBE, RICART, and other co-conspirators were present. During the meeting, NOEL CUELLO stated that, for this tax season, co-conspirators would have to take direction from RICART and ORBE.

i. NOEL CUELLO and others at N&L were also involved in at least one tax scheme beyond that involving the listing of false dependents. Specifically, NOEL CUELLO and ABREU, among others, prepared and filed entirely fraudulent tax returns, pretending to be individuals who were from Puerto Rico, but who now allegedly lived in the Bronx; these returns were designed to lead to the payment of refund checks, which co-conspirators would obtain, including by stealing or paying others to steal the checks from the mail, and then cash.

19. Based on my participation in interviews of CW-3, my review of notes and/or memoranda of those interviews, and my conversations with others participating in those interviews, I have learned the following, in substance and in part:

a. Starting in or about 2010, CW-3 began bringing individuals to the business referred to herein as N&L to avail themselves of a scheme in which individual taxpayers paid extra to have one or more minors falsely listed as dependents on tax returns. In return for each such taxpayer whom CW-3 brought to N&L, CW-3 was paid approximately \$500 by NOEL CUELLO, the defendant. CW-3 also recruited others to bring individual taxpayers to N&L to avail themselves of the scheme, in return for which CW-3 charged a fee in cash, a portion of which would be paid to NOEL CUELLO.

b. CW-3 brought individual taxpayers to N&L from in or about 2010 through in or about 2013 to take advantage of the scheme, and was paid more than \$200,000 by NOEL CUELLO.

c. NOEL CUELLO was believed to be the owner of N&L. LUZ C. RICARDO, a/k/a "Lucy," ARISMENDY CUELLO, a/k/a "Cheito," JONATHAN ORBE, a/k/a "Jigga," and CATHERINE RICART, a/k/a "Cathy," the defendants, along with NOEL CUELLO, participated in the scheme, including by preparing and/or filing, or assisting in the preparing and/or filing, of fraudulent tax returns. JOEL VARGAS, the defendant, was paid to bring individual taxpayers to N&L to avail themselves of the scheme. FRANCISCO ABREU, the defendant, brought lists of minors to N&L to use in the scheme.

d. In addition to preparing returns for individual taxpayers brought to N&L by other co-conspirators, RICART brought individual taxpayers to N&L. CW-3 heard RICART tell NOEL CUELLO to put a child on the returns of these individual taxpayers.

e. NOEL CUELLO and others at N&L were also involved in at least two schemes beyond that involving the listing of false dependents. Specifically, NOEL CUELLO and others prepared and filed entirely fraudulent tax returns, pretending to be individuals who were from Puerto Rico, but who now allegedly lived in the Bronx. These returns were designed to lead to the payment of refund checks, which co-conspirators would obtain, including by stealing or paying others to steal the checks from the mail, and then cash. NOEL CUELLO and others at N&L also prepared and filed returns that fraudulently claimed education credits, further fraudulently inflating the refunds that individual taxpayers were paid.

#### SUMMARY OF INTERVIEWS OF CERTAIN INDIVIDUAL TAXPAYERS

20. Based on my interview of a certain individual ("Individual-1"), I have learned the following, in substance and in part:

a. In or about 2011, JONATHAN ORBE, a/k/a "Jigga," the defendant, told Individual-1 that ORBE could arrange for Individual-1 to receive a bigger tax refund than Individual-1 was entitled to, if Individual-1 paid ORBE cash, in return for which ORBE would arrange for a false dependent to be listed on Individual-1's return. Individual-1 agreed to this arrangement, and had his or her tax return prepared at ORBE's direction in each of calendar years 2011, 2012, 2013, 2014. ORBE personally prepared two of these returns. Each return listed at least one dependent whom Individual-1 did not have, in return for Individual-1 paying ORBE cash, after Individual-1 received his or her refund.

b. Individual-1 was shown a copy of his or her Form 1040 for tax years 2010, 2011, 2012, and 2013. The 2010 and 2011 returns contained education expenses and credits, which were false. Each of the 2010, 2011, 2012, and 2013 returns listed at least one dependent, which was false. The 2010 return listed the preparer as Luz Ricardo (that is, LUZ C. RICARDO, a/k/a "Lucy," the defendant); Individual-1 did not know who that person is. The 2011 return listed the preparer as the first name of RICARDO's Mother; Individual-1 did not know who that person is. The 2012 return listed CATHERINE

RICART, a/k/a "Cathy," the defendant, as the preparer; Individual-1 did not know who that person is.

21. Based on my interview of another individual ("Individual-2"), I have learned the following, in substance and in part:

a. In or about 2011, NOEL CUELLO, the defendant, prepared Individual-2's tax return. In or about the same time, LUZ C. RICARDO, a/k/a "Lucy," the defendant, who Individual-2 understood was the wife of NOEL CUELLO, told Individual-2 that Individual-2 could receive a bigger tax refund, if Individual-2 paid extra, in return for which RICARDO would arrange for a false dependent to be listed on Individual-2's tax return. Individual-2 agreed, and had his or her tax return prepared by RICARDO in each of calendar years 2012 and 2013. Each return listed a dependent whom Individual-2 did not have, in return for Individual-2 paying RICARDO cash, after Individual-2 received his or her refund. Individual-2's refund checks were sent directly to the business. In 2012, Individual-2 picked up the check from CATHERINE RICART, a/k/a "Cathy," the defendant, at N&L.

b. Individual-2 was shown a copy of his or her Form 1040 for tax years 2010, 2011, and 2012. Each of the returns contained education expenses and credits, which were false. Each of the 2011 and 2012 returns listed at least one dependent, which was false.

22. Based on my interview of another individual ("Individual-3"), I have learned the following, in substance and in part:

a. Individual-3 went to the business referred to herein as N&L after Individual-3 was told by another individual that N&L could get Individual-3 a bigger tax refund than the one to which Individual-3 was entitled. In 2011, LUZ C. RICARDO, a/k/a "Lucy," the defendant, prepared Individual-3's return. Individual-3 paid \$400 for preparation of the return, which fee was taken directly out of the refund, and paid RICARDO another \$400 in cash for a fraudulent dependent, which was paid after the refund check arrived. In 2012, ARISMENDY CUELLO, a/k/a "Cheito," the defendant, prepared Individual-3's return. Individual-3's refund check was sent directly to N&L. Individual-3 picked up the check from CATHERINE RICART, a/k/a "Cathy," the defendant, at N&L; cashed the check; and then returned to N&L and handed RICART \$400 in cash, the fee for the fraudulent dependent.

b. Individual-3 was shown a copy of his or her Form 1040 for tax years 2011 and 2012. Each of the returns contained education expenses and credits, which were false. Each of the returns listed at least one dependent, which was false.

23. Based on my review of a memorandum of an interview of another individual ("Individual-4"), I have learned the following, in substance and in part:

a. Individual-4 went to the business referred to herein as N&L after Individual-4 was told by another individual ("Individual-5") that N&L could get Individual-4 a bigger tax refund than the one to which Individual-3 was entitled.

b. In 2010, Individual-4 provided Individual-5 with Individual-4's Forms W-2, Social Security card, and identification, for Individual-5 to bring to N&L so that a return could be filed on Individual-4's behalf. Individual-4's refund check was sent directly to N&L. Individual-4, accompanied by Individual-5, picked up the check from NOEL CUELLO, the defendant; cashed the check; and then paid Individual-5 \$1,000, at least a portion of which Individual-4 understood would be paid to NOEL CUELLO.

c. In 2011, Individual-4 provided Individual-5 with Individual-4's Forms W-2, for the same purpose as the prior year. After Individual-4's refund check did not arrive timely, Individual-4 went in person to N&L. Once there, Individual-4 met with LUZ C. RICARDO, a/k/a "Lucy," the defendant, who input some information in a computer, which she said would fix the problem. Thereafter, Individual-4 received his or her refund check. The office to which Individual-4 went in 2011 then closed, so he or she did not return to pay an additional fee.

d. In 2012, Individual-4 was brought by another individual (not Individual-5) to what Individual-4 thought was a new business, but which Individual-4 learned was just another location of the same business. Once at the business, Individual-4 met with ARISMENDY CUELLO, a/k/a "Cheito," the defendant. ARISMENDY CUELLO asked Individual-4 if Individual-4 went to school, and Individual-4 reported that he or she did not. ARISMENDY CUELLO then stated that he would put on Individual-4's return that Individual-4 had school expenses and a dependent. Individual-4 paid \$600 for preparation of the return, which fee was taken directly out of the refund. After Individual-4's refund check arrived, Individual-4 cashed it, and

paid the person who had brought him or her to the business \$1,000, at least a portion of which Individual-4 understood would be paid to ARISMENDY CUELLO or LUZ C. RICARDO, a/k/a "Lucy," the defendant.

e. In 2013, Individual-4 went back to the same location where he or she had gone in 2012. Once there, Individual-4 met with ARISMENDY CUELLO, a/k/a "Cheito," the defendant, who prepared Individual-4's return. Individual-4's refund check was sent directly to N&L. Individual-4 picked up the check from CATHERINE RICART, a/k/a "Cathy," the defendant, at N&L; cashed the check; and then paid RICART \$1,000.

f. Individual-4 was shown a copy of his or her Form 1040 for tax years 2009, 2010, 2011, and 2012. Each of the 2010 and 2011 returns contained education expenses and credits, which were false. Each of the 2009, 2010, 2011, and 2012 returns listed at least one dependent, which was false.

24. Based on my interview of a certain individual ("Individual-6"), I have learned the following, in substance and in part:

a. In 2012, Individual-6 went to the business referred to herein as N&L after Individual-6 heard that N&L could get Individual-6 a bigger tax refund than the one to which Individual-6 was entitled. Once at the business, Individual-6 met with JONATHAN ORBE, a/k/a "Jigga," the defendant. There was no discussion about what to put on the return, and ORBE did not show the return to Individual-6. Rather, ORBE wrote down on a piece of paper the refund that Individual-6 would receive, which Individual-6 knew was higher than Individual-6 was entitled, in return for which Individual-6 agreed to pay ORBE \$1,500. Individual-6 also had returns prepared by ORBE in 2013 and 2014, in return for \$1,500 per return.

b. Individual-6 was shown a copy of his or her Form 1040 for tax years 2011, 2012, and 2013. The 2011 return contained education expenses and credits, which were false. Each of the 2011, 2012, and 2013 returns listed at least one dependent, which was false. The 2011 return listed the preparer as the first name of RICARDO's Mother; Individual-6 did not know who that person is. The 2012 return listed CATHERINE RICART, a/k/a "Cathy," the defendant, as the preparer; Individual-6 did not know who that person is.

c. Individual-6 did not provide the names of the dependents who appeared on Individual-6's return to ORBE.



SUMMARY OF CERTAIN RECORDS WITH RESPECT TO N&L

25. Based on my review of IRS and other records, I have learned the following, in substance and in part:

a. NOEL CUELLO, the defendant, first received an EFIN from the IRS in or about December 2004 (the "December 2004 EFIN").

b. NOEL CUELLO, the defendant, received a PTIN from the IRS in or about January 2005.

c. In or about the same month, LUZ C. RICARDO, a/k/a "Lucy," the defendant, received a PTIN from the IRS.

d. In or about May 2007, NOEL CUELLO received a particular EIN (the "May 2007 EIN"), for a business identified as N&L Enterprise, located at a certain location in the Bronx, New York (the "First Location").

e. In or about June 2008, NOEL CUELLO filed incorporation documents with New York State for a business identified as N&L Enterprise Inc., located at the First Location.

f. In or about the same month, NOEL CUELLO received another EIN (the "June 2008 EIN"), for a business identified as N&L Enterprise Inc., located at the First Location.

g. In or about January 2009, RICARDO received a particular EFIN (the "January 2009 EFIN"). The application for the January 2009 EFIN listed RICARDO's residential address.

h. In or about April 2009, RICARDO filed incorporation documents with New York State for a business identified as Harlequin, Inc., located at a certain location in the Bronx, New York (the "Second Location").

i. In or about the following month, RICARDO received a particular EIN (the "May 2009 EIN"), for a business identified as Harlequin, Inc., located at the Second Location.

j. In or about June 2011, the mother of RICARDO ("RICARDO's Mother") received a particular EFIN (the "June 2011 EFIN"). The application for the June 2011 EFIN listed RICARDO's Mother's residential address.

26. Based on my review of IRS records and my conversations with others engaged in analysis of those records, I have learned the following, in substance and in part:

a. For tax year 2008 (that is, in calendar year 2009), the December 2004 EFIN and January 2009 EFIN were used to file more than 600 federal income tax returns electronically, in connection with a business identified as N and L Enterprise, L N Service Corp., LN Services, or SOS Taxes, with NOEL CUELLO, the defendant, listed as the tax preparer on the vast majority of such returns, and Lucy Ricardo (that is, LUZ C. RICARDO, a/k/a "Lucy," the defendant) listed as the tax preparer on nearly all of the other returns. Of these returns, approximately 98% claimed a refund, and approximately 72% claimed the EITC.

b. For tax year 2009 (that is, in calendar year 2010), the January 2009 EFIN was used to file more than 1100 federal income tax returns electronically, in connection with a business identified as N L Enterprise or SOS Taxes, with Lucy Ricardo (that is, RICARDO) listed as the tax preparer on nearly all of the returns. Of these returns, approximately 99% claimed a refund, and approximately 74% claimed the EITC.

c. For tax year 2010 (that is, in calendar year 2011), the January 2009 EFIN was used to file more than 1100 federal income tax returns electronically, in connection with a business identified as LN Services Corporation, with Luz Ricardo (that is, RICARDO), listed as the tax preparer on all of the returns. Of these returns, approximately 99% claimed a refund, and approximately 72% claimed the EITC.

d. For tax year 2011 (that is, in calendar year 2012), the June 2011 EFIN was used to file more than 1600 federal income tax returns electronically, in connection with a business identified as Harlequin Inc. or L and N Service Corp., with the first name of RICARDO's Mother listed as the tax preparer on all of the returns. Of these returns, approximately 99% claimed a refund, and approximately 81% claimed the EITC.

e. More than \$20 million in refunds were sought through the EFINs discussed in the foregoing subparagraphs in tax years 2008 through 2011.

27. Based on my training and experience, I have learned among other things, that (a) it is unusual for a tax preparation business to use multiple variations of the same name in the same year

and/or in consecutive years, (b) it is unusual for a tax preparation business to use different EFINs and/or EINs in consecutive years, and (c) the refund and EITC rates discussed in paragraph 26 above are high, and are consistent with the submission of fraudulent returns.

CONSENSUALLY-RECORDED CALLS AND THE UNDERCOVER OPERATION

28. In or about fall 2011, I participated in surveillance of the First Location. It appeared to be closed to the public, but still had the name of a business-- "N&L Enterprise Income Tax Service"--on its signage.

29. Based on my personal participation in the meetings, I have learned, in substance and in part, that at the request of law enforcement, CW-1 agreed to make phone calls to JOEL VARGAS, the defendant, starting in or about winter 2011, which were consensually-recorded and monitored. Based on my conversations with CW-1 and my review of draft transcripts of these recordings (translated from the Spanish language), I have learned that in these calls, among other things, VARGAS advised CW-1, in substance and in part, that N&L was open for the 2012 tax season (that is, the period starting in January 2012 when returns for tax year 2011 could be filed), had opened a second, larger location in the Bronx, New York, subsequently identified as the Second Location, and that CW-1 could bring customers to N&L to have fraudulent returns prepared and filed.

30. In or about March 2012, two undercover IRS-CI agents, who wore recording devices, entered the Second Location, posing as customers, brought by CW-1, who were interested in filing individual returns for tax year 2011. Based on my speaking with these agents, my review of a report drafted by one of these agents, and my review of draft transcripts of one of the recordings (translated from the Spanish language), I have learned, in substance and in part, the following:

a. ARISMENDY CUELLO, a/k/a "Cheito," the defendant, prepared individual federal tax returns for each of the two agents. Each agent was asked very few questions by ARISMENDY CUELLO. One agent was asked whether he or she lived with anyone, to which he or she responded negatively. Neither agent stated that he or she had children, had a minor dependent, or wished to claim the EITC or any other tax credit.

b. After each agent's tax return was prepared, the agents spoke with JOEL VARGAS, the defendant, outside of the Second

Location. During this conversation, VARGAS stated, in substance and in part, that the price for the preparation and filing of each return was \$1,600.

31. Based on my training and experience, I have learned that \$1,600 is far higher than the typical price for the preparation and filing of an individual tax return, particularly a simple individual return, such as those prepared for the undercover agents.

32. Based on my review of IRS information and tax returns, I have learned, in substance and in part, that an individual federal income tax return was filed electronically using the June 2011 EFIN, by a business identified as L and N Service Corp., at the Second Location, in early March 2012 on behalf of each undercover agent. Each return stated, falsely, the agent had a minor dependent who was the agent's nephew, and claimed the EITC. Each return also indicated that the agent was entitled to, among other things, an education credit, at least one additional child tax credit, and a credit for the federal tax on fuels, notwithstanding that neither agent had requested these credits from ARISMENDY CUELLO, a/k/a "Cheito," the defendant, or anyone else, nor had provided any information indicating that he or she qualified for any of these credits. Each return claimed a refund of more than \$5,000, to be paid by the United States Treasury. Had ARISMENDY CUELLO prepared each of these returns based on the information provided by each undercover agent, the returns should have indicated that each agent owed money to the United States Treasury, not that each agent was entitled to a refund.

33. As noted above, each tax return prepared for and filed on behalf of the undercover agents using the June 2011 EFIN stated, falsely, that each agent had a minor dependent who was the agent's nephew. Based on my review of IRS information, I have learned, in substance and in part, that in the same year in which these returns were prepared and filed, the majority of dependents claimed on tax returns filed using the June 2011 EFIN were listed as the taxpayer's niece or nephew. Based on my training and experience, I have learned that this is unusual.

#### THE FIRST SEARCH WARRANTS AND CERTAIN INTERVIEWS

34. Based on my review of documents and my participation in obtaining them, I have learned that, on or about April 12, 2012, the Honorable James C. Francis IV, United States Magistrate Judge, signed search warrants (the "First Search Warrants") for the First Location and the Second Location.

35. On or about April 17, 2012, the First Search Warrants were executed. Based on my participation in the execution of the First Search Warrants and my review to date of materials seized, I have learned that the searches of the First Location and the Second Location yielded substantial evidence of the scheme described herein, including lists of at least hundreds of minors' names, dates of birth, and SSNs, and including lists grouped in ways consistent with them having been generated for the purpose of the scheme, e.g., grouped by first name of the minor, as would occur if an individual searched a database for all people with a certain first name, and then deleted the adults from the resulting list, yielding a list of minors alone, with no apparent connection with one another. The searches of the First Location and the Second Location also yielded at least one printout from the Welfare Management System (commonly referred to as "WMS"), a database that I have learned is used by employees of the New York City Human Resources Administration ("HRA"), and which contains, among other things, minors' names, dates of birth, and social security numbers.

36. Various individuals were interviewed in connection with the searches of the First Location and the Second Location. One such individual was JOEL VARGAS, the defendant. Based on my participation in the interview, I have learned that, after law enforcement agents identified themselves, the following occurred in substance and in part:

a. VARGAS identified a photograph of NOEL CUELLO, the defendant. VARGAS stated that he knows NOEL CUELLO from a certain hair salon, which CUELLO owns, but VARGAS is not aware of any other business of NOEL CUELLO and does not do any work for NOEL CUELLO.

b. When agents informed VARGAS that they had evidence that VARGAS worked with or for N&L, VARGAS stated, "I lied on several things, you're right." VARGAS then stated that he knew that NOEL CUELLO, and his wife, LUZ C. RICARDO, a/k/a "Lucy," the defendant, owned and/or operated N&L, a tax preparation business, but the only work that VARGAS did for N&L was to clean the office, for \$100 a week. VARGAS denied bringing anyone to get his or her taxes done at N&L or being paid to send anyone to get his or her taxes done at N&L.

c. When agents questioned VARGAS about his own individual federal tax returns for tax years 2009 and 2010, which stated that VARGAS had a dependent with the initials D.A., who was identified as VARGAS's nephew (which returns were each submitted by

the January 2009 EFIN, with the tax preparer listed as "Lucy Ricardo," and the tax preparation business listed as N L Enterprise, and with the tax preparer listed as "Luz Ricardo," and the tax preparation business listed as LN Services Corporation, respectively), VARGAS stated that D.A. was not his nephew, but he did not pay anyone to list D.A. as his nephew on these returns and did not know why D.A. was listed as his nephew on these returns.

37. From my review of documents and my conversations with other law enforcements agents, I have learned that another individual interviewed in connection with the searches of the First Location and the Second Location was ARISMENDY CUELLO, a/k/a "Cheito," the defendant. Based on my review of an IRS-CI memorandum of the interview, I have learned that, after law enforcement agents identified themselves, the following occurred, in substance and in part:

a. ARISMENDY CUELLO stated that he is the brother of NOEL CUELLO, the defendant, and works at N&L as a tax preparer. ARISMENDY CUELLO took a course to learn to become a tax preparer. Other tax preparers at N&L include NOEL CUELLO, and his wife, LUZ C. RICARDO, a/k/a "Lucy," the defendant. No one at N&L puts minors on returns of clients, unless the minor is actually a dependent of a client. N&L does not maintain a list of dependents for clients to claim as theirs. ARISMENDY CUELLO has never fraudulently listed a minor as a dependent of a client.

b. When agents questioned ARISMENDY CUELLO about his own individual federal tax returns for tax years 2009 and 2010, which stated that ARISMENDY CUELLO had a dependent with the initials K.A. in 2009, and dependents with the initials K.A. and A.F. in 2010, who were each identified as ARISMENDY CUELLO's nieces (which returns were each submitted by the January 2009 EFIN, with the tax preparer listed as "Lucy Ricardo," and the tax preparation business listed as N L Enterprise, and with the tax preparer listed as "Luz Ricardo," and the tax preparation business listed as LN Services Corporation, respectively), ARISMENDY CUELLO stated that neither girl was his niece, but he had an arrangement with the girls' mothers to let him use the girls as dependents on his tax returns, in return for cash payments.

38. From my participation in the interview, I have learned that another individual interviewed in connection with the searches of the First Location and the Second Location was RICARDO's Mother, and that after law enforcement agents identified themselves, RICARDO's Mother stated, in substance and in part, that RICARDO and

NOEL CUELLO, the defendant, own and/or operate N&L, a tax preparation business. RICARDO's Mother further stated that she has no involvement in the preparation or filing of tax returns. When agents questioned RICARDO's Mother as to why she had an EFIN, she stated that NOEL CUELLO instructed her to obtain one, but he did not say why he wanted this done.

39. From my review of documents and my conversations with other law enforcement agents, I have learned that another individual interviewed in connection with the searches of the First Location and the Second Location was CATHERINE RICART, a/k/a "Cathy," the defendant. Based on my review of an IRS-CI memorandum of the interview, I have learned that, after law enforcement agents identified themselves, RICART stated, in substance and in part, that she works at N&L as its receptionist, for which she is paid \$400 a week. She does not prepare returns or know about the preparation of returns, but knows that clients have to provide birth certificates and Social Security cards for who they claim as dependents.

RICARDO'S POST-SEARCH WITHDRAWAL OF NEARLY \$300,000, TO BE PAID TO  
NOEL CUELLO'S MOTHER

40. Based on my review of bank and other records, I have learned, in substance and in part, the following:

a. At least as recently as in or about February 2012, a check was drawn on an account of Harlequin Inc., with a listed address of the Second Location. On the memo line of the check was written, "Rent," and then the street number of the address of the First Location. The check was written to a certain management company (the "Management Company").

b. The Management Company to which this check was written owned and/or managed the First Location.

c. This check was drawn on a certain account at TD Bank (the "TD Bank Account"), which was also been used to pay rent for the Second Location.

d. The TD Bank Account contains one signatory, LUZ C. RICARDO, a/k/a "Lucy," the defendant, who is identified as the President of Harlequin, Inc.

41. Based on my review of financial records, I have learned the following:

a. The TD Bank Account, starting in or about January 2011, received funds from Santa Barbara Tax Products Group, a third-party return processor (that is, a company that provides filing services, including electronic filing, and refund disbursement) for Harlequin, Inc.

b. These funds were return preparation fees, automatically deducted from a taxpayer's refund and paid to the TD Bank Account on behalf of Harlequin, Inc.

c. Since in or about January 2011, the TD Bank Account received more than \$1.5 million in such funds.

d. Various EFINs used by N&L to file returns match those for which returns were processed by Santa Barbara Tax Products Group.

42. Based on my review of records, I have learned that pertinent accounts at Santa Barbara Tax Products Group, that is, those accounts used to transmit money to the TD Bank Account, each listed the same email address as the contact email address, and that this email address was lucy\_[four numerical digits]@[a particular service provider ("service provider-1")].

43. As noted above, on or about April 17, 2012, IRS-CI executed search warrants for the First Location and the Second Location. From my review of bank records, I have learned that six days later, on or about April 23, 2012, LUZ C. RICARDO, a/k/a "Lucy," the defendant, withdrew more than \$295,000 from the TD Bank Account, and then purchased a \$270,000 bank check, made out to the mother of NOEL CUELLO, the defendant.<sup>2</sup>

CONTINUATION OF THE SCHEME AFTER THE FIRST SEARCH WARRANTS WERE EXECUTED

44. From my review of bank records, I have learned that on or about April 20, 2012, three days after the search of the First Location and the Second Location, LUZ C. RICARDO, a/k/a "Lucy," the defendant, withdrew approximately \$50,000 in cash from the TD Bank Account, and then purchased a \$50,000 bank check, made out to RICART. I have further learned that CATHERINE RICART, a/k/a "Cathy," the

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<sup>2</sup> Based on my review of documents, I have learned that, on or about June 8, 2012, the Honorable Michael H. Dolinger, United States Magistrate Judge, signed a warrant authorizing the seizure of this bank check and the TD Bank Account, on the ground that there was probable cause to believe that they consisted of proceeds of the scheme described herein.



defendant, used this check to open a new individual (non-business) bank account at TD Bank (the "RICART Account"), for which she was the sole signatory, on or about May 14, 2012.

45. Based on my review of IRS records, I have learned the following, in substance and in part:

a. CATHERINE RICART, a/k/a "Cathy," the defendant, obtained an EFIN in or about November 2012 (the "RICART EFIN") and a PTIN (the "RICART PTIN") soon thereafter.

b. In her application for the EFIN, RICART listed her business as Ricart Multi Service, a sole proprietorship, the address of which was listed as a certain address in the Bronx, New York, which matched the address on RICART's New York driver's license and RICART's personal tax returns (the "RICART Address"). In her application for the PTIN, RICART also listed the RICART Address, and provided a contact email address, which was lucyricardo[three numerical digits]@[service provider-1].

c. Between in or about January 2013 (that is, the beginning of tax season, when returns for tax year 2012 could be filed) and in or about April 2013, the RICART EFIN and RICART PTIN were used to file more than 1100 tax returns, electronically, in connection with a business identified as Orbe Multiservice or Ricart Multiservice, with the tax preparer listed as CATHERINE RICART, a/k/a "Cathy," the defendant. Of these returns, approximately 99% claimed a refund, and approximately 81% claimed the EITC. These returns sought more than \$5 million in refunds.

46. From my review of bank and other records and my conversations with others, I have learned the following, in substance and in part:

a. The RICART Account received more than \$240,000 from Santa Barbara Tax Products Group between in or about January 2013 and on or about February 21, 2013.

b. On or about February 21, 2013, RICART sought to withdraw \$200,000 from the RICART Account. TD Bank refused to allow this withdrawal.

c. In response to an inquiry by TD Bank as to the source of the funds deposited into the RICART Account, CATHERINE RICART, a/k/a "Cathy," the defendant, provided to TD Bank, among other things, an IRS letter indicating that RICART had been given

a PTIN, an application by RICART for an EFIN, and a document indicating that disbursements into the RICART Account by Santa Barbara Tax Products Group were tax return preparation fees.

d. Subsequently, RICART opened a business bank account at another bank, Bank of America, in the name Ricart Multiservice, for which RICART was the listed owner and sole signatory (the "RICART Business Account"). Thereafter, tax return preparation fees were transmitted by Santa Barbara Tax Products Group to the RICART Business Account, rather than the RICART Account.

47. From my review of IRS and other records, I have learned the following, in substance and in part:

a. Catherine Ricart dba "Ricart Multiservice" was established in or about March 2013, with a listed address of the RICART Address.

b. A sample of the returns filed by the RICART EFIN and RICART PTIN indicates that many minors listed as dependents on returns filed in 2013 using the RICART EFIN and RICART PTIN were previously listed as dependents on returns filed by N&L.

48. From my participation in surveillance, I learned that, by at least in or about spring 2013, the Second Location, which appeared to continue to operate as a tax preparation business, had new signage, stating that the business was "Orbe Multiservice."

#### THE SECOND SEARCH WARRANT AND THE INTERVIEW OF ORBE

49. Based on my review of documents and my participation in obtaining them, I have learned that, on or about April 28, 2013, the Honorable Debra Freeman, United States Magistrate Judge, signed a search warrant (the "Second Search Warrant") for the Second Location.

50. On or about April 30, 2013, the Second Search warrant was executed. Based on my participation in the execution of the Second Search Warrant and my review to date of materials seized, I have learned that the search of the Second Location again yielded evidence of the scheme described herein, including a list of minors' names with dates of birth and SSNs. Based on my review, I have learned that a sample of the names/SSNs on this list indicates that they correspond to minors claimed as dependents previously by N&L, and more recently by Orbe Multiservice. On this list, names were

handwritten next to the name of the minor. These names appear to be the adult who claimed the minor as a dependent.

51. JONATHAN ORBE, a/k/a "Jigga," the defendant, was interviewed in connection with the search of the Second Location. Based on my participation in the interview, I have learned that, after law enforcement agents identified themselves, the following occurred in substance and in part:

a. ORBE stated that he has no dependents and has had no children living with him for the last five years.

b. ORBE stated that he started working for NOEL CUELLO, the defendant, in January 2012, filing tax returns at N&L. In or about summer 2012, ORBE purchased the tax preparation business from NOEL CUELLO for cash. No contract was executed documenting the purchase.

c. ORBE stated that the only business bank account for his business is at Bank of America and is in the name of Catherine Ricart (that is, CATHERINE RICART, a/k/a "Cathy," the defendant). RICART is the sole signatory on the account.

d. ORBE stated that RICART is just the secretary at the business, and does not prepare or file returns; only ORBE, the owner of the business, does so. ORBE was not able to explain why his business bank account was in his secretary's name.

e. In response to agents' questions regarding the RICART EFIN and PTIN, ORBE was not able to explain why returns filed by his business were filed using the RICART EFIN and PTIN, and not one obtained by ORBE, if, as ORBE stated, RICART did not prepare or file returns.

f. In response to agents' questions regarding why the business had multiple computers if, as ORBE stated, only he prepared and filed returns, ORBE had no explanation.

CONTINUATION OF THE SCHEME AFTER THE SECOND SEARCH WARRANT WAS EXECUTED

52. Based on my review of IRS, bank, and other records, I have learned the following, in substance and in part:

a. JONATHAN ORBE, a/k/a "Jigga," the defendant, received an EFIN from the IRS in or about September 2013 (the

"September 2013 EFIN"). The application for the September 2013 EFIN listed ORBE's residential address.

b. In or about the same month, ORBE filed incorporation documents with New York State for a business identified as Jay's Multiservices Inc.

c. In or about the following month, October 2013, ORBE opened a business bank account in the name of a business identified as Jay's Multiservices, Inc. (the "ORBE Business Account").

d. In or about January 2014, ORBE opened an account with Santa Barbara Tax Products Group with respect to the receipt and transmission of tax preparation fees.

e. Between in or January 2014 and in or about March 2014, more than \$450,000 was transmitted from the Santa Barbara Tax Products Group to the ORBE Business Account.

53. Based on my review of IRS records and my conversations with others, I have learned that between in or about January 2014 and in or about March 2014, the September 2013 EFIN was used to file more than 1200 tax returns, electronically, in connection with a business identified as Jonathan Orbe, with the tax preparer listed as JONATHAN ORBE, a/k/a "Jigga," the defendant. Of these returns, 100% claimed a refund, and approximately 93% claimed the EITC. These returns sought more than \$5 million in refunds.

#### REVIEW OF FRANCISCO ABREU'S COMPUTER AND THE INTERVIEW OF ABREU

54. From my conversations with investigators with DOI, I have learned that FRANCISCO ABREU, a/k/a "Seyayin," the defendant, worked as a fraud investigator with HRA from in or about July 1996 until in or about May 2013 (when he resigned), and that, in that capacity, he had access to, among other things, minors' names, dates of birth, and SSNs.

55. From my participation in the investigation, I have learned that DOI reviewed a mirror image (that is, a copy) of the work computer of FRANCISCO ABREU, a/k/a "Seyayin," the defendant, in or about July 2012, and that this review indicated that he had created at least one list of minors' names, dates of birth, and SSNs, in a manner inconsistent with the performance of his legitimate duties.

56. On or about March 6, 2013, accompanied by a DOI investigator, I participated in an interview of FRANCISCO ABREU, a/k/a "Seyayin," the defendant, at his home in the Bronx, New York. After we identified ourselves, ABREU invited us inside. In response to a question as to whether ABREU knew NOEL CUELLO, the defendant, ABREU stated, in substance and in part, that he knew NOEL CUELLO only as the individual who prepared ABREU's own tax return. In response to a question as to whether ABREU had ever sold a list of children's names, dates of birth, and/or SSNs, ABREU stated, "It's not a yes or no question." He declined to speak further.

57. Based on my review of bank records, I have learned that (a) between in or about February 2008 and in or about August 2010, more than \$18,000 in cash was deposited into a personal bank account of FRANCISCO ABREU, a/k/a "Seyayin," the defendant, and (b) between in or about May 2011 and in or about April 2012, more than \$29,000 in cash was deposited into another personal bank account of ABREU.

#### REVIEW OF CERTAIN OF THE DEFENDANTS' INDIVIDUAL TAX RETURNS

58. I have reviewed U.S. Individual Income Tax Returns, Forms 1040, for LUZ C. RICARDO, a/k/a "Lucy," the defendant, for tax years 2009 and 2010, each of which was filed using the January 2009 EFIN. As noted above, in paragraph 5, in each of tax years 2009 and 2010, RICARDO included a dependent with the initials "G.A." on her return. G.A. was listed as her daughter. Based on my review of IRS and HRA records, I have learned that the mother of G.A. is not RICARDO. Further, based on my participation in an interview of RICARDO's Mother, I have learned that RICARDO does not have a daughter.

59. I have reviewed U.S. Individual Income Tax Returns, Forms 1040, for ARISMENDY CUELLO, a/k/a "Cheito," the defendant, for tax years 2008 through 2010, each of which was filed using the January 2009 EFIN. As noted above, in paragraph 6, for each of tax years 2008 and 2009, ARISMENDY CUELLO included a dependent with the initials "K.A." on his return, and for tax year 2010, he included dependents with the initials "K.A." and "A.F." on his return. Both K.A. and A.F. were listed as his nieces. As discussed above, in paragraph 37(b), when interviewed, ARISMENDY CUELLO admitted that neither K.A. nor A.F. was his niece. Rather, he had an arrangement with the girls' mothers to let him use the girls as dependents on his tax returns, in return for cash payments.

60. I have reviewed U.S. Individual Income Tax Returns, Forms 1040, for JONATHAN ORBE, a/k/a "Jigga," the defendant, for the

tax years 2011 and 2012. His 2011 return was filed using the June 2011 EFIN, and his 2012 return was filed using the RICART EFIN. As noted above, in paragraph 7, for each of tax years 2011 and 2012, ORBE included a dependent with the initials "K.R." on his return. K.R. was listed as his niece. As discussed above, in paragraph 51(a), when interviewed, ORBE stated that he had no dependents and had no children living with him for the last five years. Further, based on my review of a memorandum of the interview of K.R.'s mother, I have learned that K.R. never lived with ORBE and is not ORBE's niece.

61. I have reviewed U.S. Individual Income Tax Returns, Forms 1040, for CATHERINE RICART, a/k/a "Cathy," the defendant, for the tax years 2008 through 2012. Her 2008, 2009, and 2010 returns were filed using the January 2009 EFIN, her 2011 return was filed using the June 2011 EFIN, and her 2012 return was filed using the RICART EFIN. As noted above, in paragraph 8, for each of these tax years, RICART included at least one dependent on her return with the initials "E.M.," "E.P.," and/or "G.R." On these returns, E.M.-1 and E.M.-2 were listed as RICART's nephew; E.P. was listed as her niece; and G.R. was listed as her nephew. Based on my participation in an interview of the parents of E.P., I have learned that E.P. never lived with RICART and is not RICART's niece. Based on my review of HRA records and information, I have learned that in each of calendar years 2007 through 2013, RICART received one or more public benefits, and, in connection with doing so, submitted multiple forms to HRA in which she was asked, among other things, to list all people living with her. She did not list any minor with the initials E.M., E.P., or G.R.


62. I have reviewed U.S. Individual Income Tax Returns, Forms 1040, for JOEL VARGAS, the defendant, for tax years 2009 and 2010, each of which was filed using the January 2009 EFIN. As noted above, in paragraph 9, for each of tax years 2009 and 2010, VARGAS included a dependent with the initials "D.A." on his return. D.A. was listed as his nephew. As discussed above, in paragraph 36(c), when interviewed, VARGAS admitted that D.A. was not his nephew.

THE APPROXIMATE AMOUNT CLAIMED IN RETURNS FILED BY THE DEFENDANTS


63. Based on my review of IRS records, I have learned that between in or about 2009 and in or about spring 2014, the EFINS discussed above were used to file federal tax returns claiming more than \$30 million in refunds.

WHEREFORE, deponent respectfully requests that warrants be issued for the arrest of NOEL CUELLO, LUZ C. RICARDO, a/k/a "Lucy,"

FRANCISCO ABREU, a/k/a "Seyayin," ARISMENDY CUELLO, a/k/a "Cheito,"  
JONATHAN ORBE, a/k/a "Jigga," CATHERINE RICART, a/k/a "Cathy," and  
JOEL VARGAS, the defendants, and that they be imprisoned, or bailed,  
as the case may be.

  
\_\_\_\_\_  
KAREN FLANAGAN  
Special Agent  
IRS-CI

Sworn to before me this  
7th day of January 2015

  
\_\_\_\_\_  
THE HONORABLE JAMES L. COTT  
United States Magistrate Judge  
Southern District of New York