

COPY

U.S. DISTRICT COURT
 NORTHERN DISTRICT OF TEXAS
FILED
 JUN - 5 2007
 CLERK, U.S. DISTRICT COURT
 By SLS
 Deputy

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION

UNITED STATES OF AMERICA
 v.
 HERBERT JENA (1)
 NANCY MUNOZ (2)
 AURORA PEREZ (3)

§
§
§
§
§
§

No. 3:07-cr-186-R

File Under Seal

UNSEALED

INDICTMENT

The Grand Jury Charges:

Count One
 Conspiracy to Defraud the United States
 (Violation of 18 U.S.C. § 371)

Introduction

1. At all times material to this indictment:
 - a. The Sixteenth Amendment to the United States Constitution, ratified in 1913, empowered Congress to tax "incomes, from whatever source derived." All residents and all citizens of the United States were subject to the federal income tax, the purpose of which was to generate revenue for the federal budget and to shape and preserve the free market economy of the United States.
 - b. The Internal Revenue Service of the Department of the Treasury ("IRS") was an agency of the United States of America responsible for assessing and collecting federal income taxes owed by individuals and business entities.

c. Every year, each individual taxpayer was required to file a U.S. Individual Income Tax Return, Form 1040, showing their filing status, claiming exemptions and dependents, reporting income, expenses, and deductions and to show any tax due the government or a refund if the tax was overpaid by the taxpayer.

d. IRS procedures permitted a taxpayer to file a U.S. Individual Income Tax Return, Form 1040, electronically with an approved IRS Service Center.

e. The Telephone Excise Tax Refund (TETR) was a one-time credit available on 2006 federal income tax returns. The TETR was designed to refund previously collected federal excise taxes on long-distance or bundled telephone service paid from February 2003 through August 2006. Individuals, businesses, and qualified tax-exempt organizations were eligible to receive the refund. Taxpayers could claim the standard TETR credit, which ranged from \$30 to \$60. Alternatively, taxpayers could make their TETR refund requests by calculating the actual amount of telephone excise tax they paid and completing IRS Form 8913, entitled "Credit for Federal Telephone Excise Tax Paid," which the taxpayer was required to attach to their 2006 income tax return.

f. The Fuel Tax Credit (FTC) was a federal tax reimbursement available to eligible taxpayers arising out of the non-taxable use of fuel during certain qualified business activities. Taxpayers could claim the FTC by completing IRS Form 4136, entitled "Credit for Federal Tax Paid on Fuels," which the taxpayer was required to attach to their 2006 income tax return.

g. Defendant, **Herbert Jena**, age 31, was a citizen of the country of

Zimbabwe and a resident of Dallas, Texas and, doing business as Montfort Tax Services, 5625 Alpha Road, Dallas (Montfort), and also doing business as Jackson Hubbert, 5625 Alpha Road, Texas, prepared, or assisted in the preparation of, U.S. Individual Income Tax Return Forms 1040 for the 2006 tax year for clients of Montfort and Jackson Hubbert.

h. Defendant, **Nancy Munoz**, age 24, was a resident of Irving, Texas and worked with **Jena** at Montfort and Jackson Hubbert. In that capacity, **Munoz** prepared, or assisted in the preparation of, U.S. Individual Income Tax Return Forms 1040 for the 2006 tax year for clients of Montfort and Jackson Hubbert that the defendants subsequently filed or caused to be filed electronically with the IRS.

i. Defendant, **Aurora Perez**, age 41, was a resident of Irving, Texas and worked with **Jena** and **Munoz** at Montfort and Jackson Hubbert. In that capacity, **Perez** prepared, or assisted in the preparation of, U.S. Individual Income Tax Return Forms 1040 for the 2006 tax year for clients of Montfort and Jackson Hubbert that the defendants subsequently filed or caused to be filed electronically with the IRS.

j. In preparing federal tax returns for Montfort and Jackson Hubbert, **Jena**, **Perez**, and **Munoz** placed, or caused others to place, false and fraudulent claims for the TETR and FTC on numerous returns in order to increase tax refunds and to generate higher tax preparation fees for the defendants.

k. After preparing, or causing to be prepared, federal income tax returns for clients of Montfort and Jackson Hubbert, the defendants subsequently filed such

returns, or caused them to be filed, electronically with the IRS.

The Conspiracy

2. Beginning at least as early as September 20, 2006, and continuing thereafter until at least March 1, 2007, the exact dates being unknown to the Grand Jury, in the Dallas Division of the Northern District of Texas, and elsewhere, defendants, **Herbert Jena, Nancy Munoz, and Aurora Perez**, did knowingly and willfully combine, conspire, and agree with each other and with other individuals, both known and unknown to the Grand Jury, to defraud the United States of America by impeding, impairing, obstructing, and defeating the lawful functions of the Internal Revenue Service of the Department of the Treasury in the ascertainment, computation, assessment, and collection of the revenue, that is, federal income taxes, in violation of 18 U.S.C. § 371.

Object of the Conspiracy

3. It was the object of the conspiracy to defraud the United States Department of the Treasury, Internal Revenue Service by obtaining, and aiding to obtain, the payment of false and fraudulent claims.

Manner and Means of the Conspiracy

4. It was a part of the aforesaid conspiracy that **Jena** obtained approximately eleven Electronic Filer Identification Numbers (EFINs) from the IRS that the defendants subsequently used in the preparation and submission of numerous false and fraudulent federal income tax returns to the IRS.

5. It was further part of the aforesaid conspiracy that **Jena** purchased or

caused to be purchased TaxWise software from Universal Tax Systems that the defendants used in the preparation of the fraudulent tax returns.

6. It was further part of the aforesaid conspiracy that the defendants solicited and obtained numerous individual taxpayers to become clients of Montfort and Jackson Hubbert.

7. It was further part of the aforesaid conspiracy that the defendants, using the EFINs obtained by **Jena** and information obtained from the taxpayers, prepared false federal tax returns using the names of actual tax clients of Montfort and Jackson Hubbert. The defendants manipulated the tax returns by fraudulently including false TETR and FTC claims that, as the defendants well knew, were not valid and that the defendants concealed from the taxpayers for whom the returns were prepared. In falsifying the returns, the defendants included false requests for refunds or credits from the IRS, resulting in refund and credit overpayments by the IRS and unearned and fraudulent tax preparation fees paid to the defendants.

8. It was further part of the aforesaid conspiracy that the defendants electronically filed, or caused to be electronically filed, individual income tax returns with the IRS that were false because they claimed false amounts for the TETR or FTC.

9. It was further part of the aforesaid conspiracy that between January 12, 2007, and February 20, 2007, the defendants filed, or caused to be filed, approximately 1,681 individual income tax returns with the IRS using **Jena's** multiple EFINs. Approximately 1,200 of those returns contained requests for the TETR in excess of \$60,

the highest amount of the standard TETR credit. The total amount of TETR claims submitted by the defendants was approximately \$1,618,267. Approximately 774 of the returns contained requests for the FTC. The total amount of FTC claims submitted by the defendants was approximately \$1,165,758.

10. It was further part of the aforesaid conspiracy that the defendants directed the fraudulently obtained income tax refunds to be deposited into bank accounts held in **Jena's** name or controlled by him.

Overt Acts

11. In furtherance of the conspiracy to defraud the United States and to carry out the object of the conspiracy, in the Northern District of Texas and elsewhere, the defendants, **Herbert Jena, Nancy Munoz, and Aurora Perez**, and others, both known and unknown to the Grand Jury, committed and caused to be committed the following overt acts, among others:

a. On or about September 20, 2006, **Jena** applied for four EFINs that the defendants used in preparing and submitting false and fraudulent tax returns to the IRS;

b. On or about December 29, 2006, **Jena** obtained multiple accounts at Santa Barbara Bank and Trust in order to receive proceeds from false 2006 income tax returns submitted to the IRS;

c. On or about December 29, 2006, **Jena** obtained multiple accounts at HSBC Bank in order to receive proceeds from false 2006 income tax returns submitted to

the IRS;

d. Between on or about January 12, 2007 and February 20, 2007, **Jena** included and caused **Munoz, Perez**, and others, both known and unknown to the Grand Jury, to include, fraudulent requests for the TETR and/or FTC on individual federal income tax returns prepared by the defendants and others in order to increase tax refunds and generate higher tax preparation fees for the defendants;

e. On or about the dates listed below, the defendants prepared and filed, or caused to be prepared and filed, with the IRS false individual 2006 federal income tax returns for the following taxpayers, which returns were false in that they claimed false amounts for the TETR and/or FTC, each such preparation and filing being an overt act in furtherance of the conspiracy:

<u>TAXPAYER</u>	<u>FILING DATE</u>
E.C. and A.A.	January 19, 2007
J.E.	January 16, 2007
L.E.	January 18, 2007
R.F.	January 31, 2007
R.H.	January 23, 2007
B.W.	January 17, 2007
D.G.	January 23, 2007
J.G.	January 23, 2007
J.J.	January 23, 2007
J.S.	January 18, 2007
K.D.	January 19, 2007
S.H.	January 19, 2007

D.N.	January 29, 2007
D.B.	January 20, 2007
H.W.	January 13, 2007
K.H.	January 13, 2007
L.R.	January 16, 2007
L.F.	January 18, 2007
M.R.	January 18, 2007
M.G.	January 16, 2007
Mo.G.	January 13, 2007
S.I.	January 13, 2007
C.T.	January 23, 2007
L.C.	January 29, 2007
T.C.	January 15, 2007
W.C.	January 26, 2007
I.E.	January 18, 2007

f. Between on or about January 12, 2007 and February 20, 2007, in order to conceal the conspiracy from detection, **Jena** instructed and caused **Munoz**, **Perez**, and others, both known and unknown to the Grand Jury, to conceal from the taxpayers identified above information on their respective federal income tax returns showing the total tax refund sought, the fact of and the amount of TETR and/or FTC claimed on each such return, and the amount of tax preparation fee received by the defendants.

g. Substantive Counts Two – Twenty of this indictment are hereby incorporated by reference as overt acts in furtherance of the foregoing conspiracy.

All in violation of 18 U.S.C. § 371.

Count Two – Eight
Aiding and Assisting Fraud and False Statements
(Violation of 26 U.S.C. § 7206(2))

1. The Grand Jury hereby adopts, realleges, and incorporates by reference herein all the factual allegations set forth in Count One of this indictment.

2. On or about each of the dates set forth below, in the Dallas Division of the Northern District of Texas, and elsewhere, the defendant, **Herbert Jena**, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, for the following individual taxpayers for the calendar year 2006, which the defendant knew was false and fraudulent as to a material matter, in that the taxpayer was not entitled to the TETR and/or FTC listed on the tax return:

<u>COUNT</u>	<u>TAX-PAYER</u>	<u>FILING DATE</u>	<u>TETR CLAIMED</u>	<u>FTC CLAIMED</u>	<u>TOTAL CREDIT CLAIMED</u>
2	B.W.	1/17/2007	\$812	\$0	\$782
3	D.G.	1/23/2007	\$812	\$146	\$928
4	J.G.	1/23/2007	\$812	\$915	\$1,697
5	J.J.	1/23/2007	\$1,406	\$2,196	\$3,572
6	J.S.	1/18/2007	\$893	\$0	\$3,084
7	K.D.	1/19/2007	\$812	\$275	\$1,057
8	S.H.	1/19/2007	\$812	\$915	\$1,697

Each in violation of 26 U.S.C. § 7206(2).

Count Nine – Sixteen
Aiding and Assisting Fraud and False Statements
(Violation of 26 U.S.C. § 7206(2))

1. The Grand Jury hereby adopts, realleges, and incorporates by reference herein all the factual allegations set forth in Count One of this indictment.

2. On or about each of the dates set forth below, in the Dallas Division of the Northern District of Texas, and elsewhere, the defendant, **Nancy Munoz**, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, for the following individual taxpayers for the calendar year 2006, which the defendant knew was false and fraudulent as to a material matter, in that the taxpayer was not entitled to the TETR and/or FTC listed on the tax return:

<u>COUNT</u>	<u>TAX-PAYER</u>	<u>FILING DATE</u>	<u>TETR CLAIMED</u>	<u>FTC CLAIMED</u>	<u>TOTAL CREDIT CLAIMED</u>
9	D.N.	1/29/2007	\$1,344	\$0	\$1,314
10	D.B.	1/20/2007	\$2,077	\$0	\$3,079
11	H.W.	1/13/2007	\$1,613	\$0	\$1,583
12	L.R.	1/16/2007	\$1,630	\$389	\$4,001
13	L.F.	1/18/2007	\$1,630	\$648	\$4,179
14	M.R.	1/18/2007	\$1,102	\$0	\$3,272
15	M.G.	1/16/2007	\$1,472	\$0	\$2,289

16	Mo.G.	1/13/2007	\$1,466	\$0	\$1,436
----	-------	-----------	---------	-----	---------

Each in violation of 26 U.S.C. § 7206(2).

Count Seventeen – Twenty
Aiding and Assisting Fraud and False Statements
(Violation of 26 U.S.C. § 7206(2))

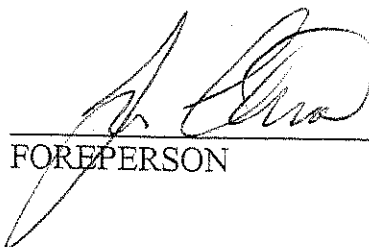
1. The Grand Jury hereby adopts, realleges, and incorporates by reference herein all the factual allegations set forth in Count One of this indictment.

2. On or about each of the dates set forth below, in the Dallas Division of the Northern District of Texas, and elsewhere, the defendant, **Aurora Perez**, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, for the following individual taxpayers for the calendar year 2006, which the defendant knew was false and fraudulent as to a material matter, in that the taxpayer was not entitled to the TETR and/or FTC listed on the tax return:

<u>COUNT</u>	<u>TAX-PAYER</u>	<u>FILING DATE</u>	<u>TETR CLAIMED</u>	<u>FTC CLAIMED</u>	<u>TOTAL CREDIT CLAIMED</u>
17	E.C. and A.A.	1/19/2007	\$1,329	\$1,098	\$2,367
18	L.E.	1/18/2007	\$614	\$1,830	\$2,414
19	R.F.	1/31/2007	\$1,264	\$366	\$1,600
20	R.H.	1/23/2007	\$1,303	\$3,111	\$6,927

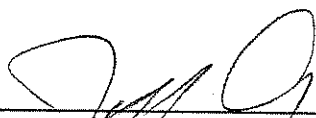
Each in violation of 26 U.S.C. § 7206(2).

A TRUE BILL



FOREPERSON

RICHARD B. ROPER
UNITED STATES ATTORNEY



JEFFREY J. ANSLEY
Assistant United States Attorney
Texas Bar No. 00790235
1100 Commerce Street, Third Floor
Dallas, Texas 75242
Telephone: 214.659.8600
Facsimile: 214.767.4100
jeffrey.ansley@usdoj.gov