

Approved: *Sarah L. Kushner*  
Sarah L. Kushner  
Assistant United States Attorney

Before: THE HONORABLE SARAH NETBURN  
United States Magistrate Judge  
Southern District of New York

- - - - -	X	
	:	<b><u>SEALED COMPLAINT</u></b>
UNITED STATES OF AMERICA	:	
	:	Violations of 18
- v. -	:	U.S.C. §§ 1341, 1343,
	:	and 2, and 26 U.S.C.
CARLOS DE LA TORRE,	:	\$ 7206(1)
	:	
Defendant.	:	COUNTY OF OFFENSE:
	:	NEW YORK
- - - - -	X	

SOUTHERN DISTRICT OF NEW YORK, ss.:

CASEY RYAN, being duly sworn, deposes and says that he is a Special Agent with the Internal Revenue Service-Criminal Investigation, and charges as follows:

**COUNT ONE**  
**(Mail Fraud)**

1. From at least in or about 2014 through at least in or about 2020, in the Southern District of New York and elsewhere, CARLOS DE LA TORRE, the defendant, willfully and knowingly, 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, for the purpose of executing such scheme and artifice and attempting so to do, did place in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the United States Postal Service, and did deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and did take and receive therefrom, such matters and things, and did cause to be delivered by mail and such carriers, according to the directions thereon, and at the places at which they were directed to be delivered by the person to whom they were addressed, such matters and things, to wit, DE LA TORRE, a tax preparer, collected checks from his clients, but rather than using that money to pay his clients'

taxes, as he was obligated to do, DE LA TORRE fraudulently altered the checks by writing his own Social Security number in the memo line and mailed those altered checks by mail to the Internal Revenue Service ("IRS") and the New York State Department of Taxation and Finance ("NYSDTF"), to pay for his own federal and state tax liabilities and to obtain tax refunds from the IRS and NYSDTF in the amount of money he stole from his clients, in excess of the tax liabilities he owed each year.

(Title 18, United States Code, Sections 1341 and 2.)

**COUNT TWO**  
**(Wire Fraud)**

2. From at least in or about 2014 through at least in or about 2020, in the Southern District of New York and elsewhere, CARLOS DE LA TORRE, the defendant, willfully and knowingly, 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, 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 wit, as part of a scheme to defraud his clients of money, DE LA TORRE submitted checks he collected from his clients to the IRS and NYSDTF to pay for his own federal and state tax liabilities, and in doing so, fraudulently caused the U.S. Treasury and New York State to transmit tax refunds to which DE LA TORRE was not entitled via wire into his personal bank account.

(Title 18, United States Code, Sections 1343 and 2.)

**COUNTS THREE-SEVEN**  
**(Subscribing To False Individual Tax Returns)**

3. On or about each of the dates set forth below, in the Southern District of New York and elsewhere, CARLOS DE LA TORRE, the defendant, willfully and knowingly did make and subscribe a United States Individual Income Tax Return, Form 1040, for himself for each tax year specified below, which return contained and was verified by a written declaration that it was made under penalties of perjury, and which return DE LA TORRE did not believe to be true and correct as to every material matter, to wit, DE LA TORRE significantly understated his income on his Form 1040s for the below-listed tax years by, among other things, failing to report money he stole from his clients and claiming that he was entitled to a fraudulently

inflated tax refund as part of the mail fraud and wire fraud schemes charged in Counts One and Two of this Complaint:

<b>Count</b>	<b>Tax Year</b>	<b>Approximate Filing date</b>	<b>False Items</b>
3	2015	February 14, 2016	Line 22 (total income) Line 43 (taxable income) Line 75 (amount overpaid)
4	2016	February 7, 2017	Line 22 (total income) Line 43 (taxable income) Line 75 (amount overpaid)
5	2017	February 7, 2018	Line 22 (total income) Line 43 (taxable income) Line 75 (amount overpaid)
6	2018	January 28, 2019	Line 6 (total income) Line 10 (taxable income) Line 19 (amount overpaid)
7	2019	February 19, 2020	Line 7b (total income) Line 11b (taxable income) Line 20 (amount overpaid)

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

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

4. I have been a Special Agent with the Internal Revenue Service, Criminal Investigation ("IRS-CI") since approximately 2012. I have been personally involved in the investigation of this matter and I base this affidavit on that personal experience, as well as on my conversations with other law enforcement agents, and my examination of various reports and records. Because this affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all of the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

#### BACKGROUND

5. Based on my participation in this investigation, as well as my discussions with other law enforcement agents, I have learned, among other things, the following:

a. Pursuant to the Internal Revenue Code and attendant regulations, individual U.S. citizens and residents are generally required to report accurately their income, tax obligations, and, where appropriate, any claim for a refund annually on a Form 1040, which must be filed with the IRS.

b. Taxpayers in New York may make payments to the IRS and to the NYSDTF for federal and state taxes that such taxpayers expect to owe for a particular tax period ("Estimated Tax"). Estimated Tax payments may be made on a monthly or quarterly basis.

c. Federal Estimated Tax payments may be made by mailing to the IRS an Estimated Tax payment together with a Form 1040-ES Payment Voucher. The Form 1040-ES Payment Voucher designates the taxpayer account to which an Estimated Tax payment should be credited and requires, among other things, the taxpayer's (i) name, (ii) social security number or taxpayer identification number, and (iii) address.

d. State Estimated Tax payments may be made by mailing to the NYSDTF an Estimated Tax payment together with a New York State Form IT-2105. The Form IT-2105 designates the taxpayer account to which an Estimated Tax payment should be credited and requires, among other things, the taxpayer's (i) name, (ii) social

security number or taxpayer identification number, and (iii) address.

e. When calculating a taxpayer's tax liability for a given year, federal and state tax authorities base their calculations of any tax due in part on Estimated Tax payments that have been credited to a taxpayer's account. If prior Estimated Tax payments exceed the amount of taxes owed by a taxpayer for a particular year, the taxpayer may be entitled to a refund of any excess amount. Refunds to taxpayers may take several forms, including wire transfers to a taxpayer's bank account.

6. In this case, as further described below, CARLOS DE LA TORRE, the defendant, a tax preparer, defrauded his clients, the IRS, and the NYSDTF of money by taking advantage of the Estimated Tax payment process.

#### The Defendant

7. Based on my involvement in this investigation, and my review of records obtained from the IRS, I know, among other things, that:

a. CARLOS DE LA TORRE, the defendant, is a legal permanent resident in the United States, and has been since at least in or about the 1970s.

b. DE LA TORRE is a tax preparer and the sole proprietor of a bookkeeping and tax preparation business, Midtown Bookkeeping Services, located in New York, New York.

c. From at least in or about 1999 through at least in or about 2020, DE LA TORRE represented certain small businesses based in New York, New York, and their owners in connection with the preparation and filing of their personal and business federal and state tax returns, including the victims ("Victim-1," "Victim-2," "Victim-3," "Victim-4," and collectively the "Victims") in this case, who were referred to DE LA TORRE.

#### The Victims

8. The Victims in this case were tax preparation clients of CARLOS DE LA TORRE, the defendant. They entrusted DE LA TORRE to handle their personal and business federal and state taxes.

9. Based on my conversations with the Victims, I have learned, among other things, the following:

a. Victim-1 is the owner of a restaurant ("Restaurant-1") located in New York, New York.

b. Victim-2 is the owner of a restaurant ("Restaurant-2") located in New York, New York.

c. Victim-3 has been the co-owner of four different businesses over the years, all based in the Bronx, New York.

d. Victim-4 lives in New York, New York.

e. The Victims paid for and used the tax preparation services of CARLOS DE LA TORRE, the defendant, from at least in or about the 1990s through at least in or about December 2020. During this period, DE LA TORRE was responsible for preparing and filing Victim-1, -2, and -3's federal and state business and personal taxes and Victim-4's federal and state personal taxes.

f. At regular intervals, DE LA TORRE told the Victims how much they allegedly owed in state and federal personal and business taxes. In reliance on DE LA TORRE's representations, the Victims provided to DE LA TORRE the funds he requested to cover the Victims' liabilities to the IRS or the NYSDTF for a particular tax period. Usually, and as relevant here, Victims would give DE LA TORRE checks for the amounts they allegedly owed. DE LA TORRE was obligated to submit the checks to the IRS or the NYSDTF on the Victims' behalf, to be applied toward the Victims' federal or state tax liabilities for the relevant tax period.

g. The Victims never gave DE LA TORRE permission to use the Victims' checks for any purpose other than to pay the IRS and NYSDTF taxes owed by the Victims.

#### The Defendant's Tax Refund Scheme

10. Based on my review of records obtained from the IRS and the NYSDTF, my review of checks and accompanying Forms 1040-ES and Forms IT-2105 that CARLOS DE LA TORRE, the defendant, submitted to the IRS and the NYSDTF, respectively, and my review of bank records, I have learned, among other things, the following about the fraudulent scheme perpetrated by DE LA TORRE:

a. During the period from at least in or about 2014 through at least in or about 2020, DE LA TORRE requested that the Victims deliver to him checks, allegedly for the payment of the Victims' federal and state tax liabilities, for the purported purpose of allowing DE LA TORRE to make tax payments to the IRS and the NYSDTF on the Victims' behalf.

b. Instead of submitting the Victims' checks as payments to be applied toward the Victims' federal and state tax liabilities, as he represented to the Victims he would do, DE LA TORRE fraudulently altered the checks and submitted them to the IRS or the NYSDTF as Estimated Tax payments to be credited against his own personal tax liabilities.

c. Specifically, DE LA TORRE wrote his own Social Security number in the memo line of the checks. After altering a Victim's check, DE LA TORRE mailed the check to the IRS or to the NYSDTF along with a completed Form 1040-ES or Form IT-2105 that contained DE LA TORRE's own information. Because the Forms 1040-ES and Forms IT-2105 contained DE LA TORRE's own information, the IRS and the NYSDTF credited the altered checks submitted with those forms toward DE LA TORRE's own federal and state tax liabilities, rather than to the Victims' federal and state tax liabilities.

d. The total Estimated Tax payments that DE LA TORRE submitted to the IRS or the NYSDTF for a particular tax period greatly exceeded DE LA TORRE's own tax liabilities for that period. Accordingly, at the end of each tax period, DE LA TORRE fraudulently sought and received a refund from the IRS and/or the NYSDTF for the total amount of the altered checks he submitted to each agency, less any amount DE LA TORRE actually owed in taxes for that period. Refunds from the IRS and the NYSDTF were wired by the U.S. Treasury and New York State, respectively, directly into DE LA TORRE's personal bank account ("Bank Account-1") at a particular bank (the "Bank").

11. For example, based on my review of records obtained from the IRS and bank account records, as well as my conversations with Victim-1, I have learned, among other things, the following:

a. In or about July 2018, Victim-1 gave CARLOS DE LA TORRE, the defendant, a check from Restaurant-1 written out to the U.S. Treasury in the amount of approximately \$4,987.00. Victim-1 gave DE LA TORRE that check to submit to the IRS to be applied against Restaurant-1's taxes for the tax year 2018.

b. DE LA TORRE, however, altered Victim-1's check by writing DE LA TORRE's own Social Security number in the memo

line of the check and then submitted the altered check to the IRS, along with a Form 1040-ES containing his own information, as an Estimated Tax payment to be credited toward his own account, which it was.

c. DE LA TORRE used that altered check and other checks he collected from the Victims to pay his federal tax liabilities for the tax year 2018.

d. Those altered checks, however, far exceeded DE LA TORRE's federal tax liabilities in 2018. Accordingly, on or about January 15, 2019, DE LA TORRE submitted a false United States Individual Income Tax Return, Form 1040, for the tax year 2018, fraudulently claiming a refund in the amount of \$49,438, representing the total amount of money he stole from the Victims and submitted to the IRS as his own Estimated Tax payments for that tax period, less any amount he actually owed the IRS for that tax period.

e. As a result, on or about February 27, 2019, DE LA TORRE received a refund (the "2018 Refund") from the IRS in the amount of approximately \$42,687.04.<sup>1</sup> The U.S. Treasury wired the 2018 Refund directly into Bank Account-1.

12. Based on my review of records obtained from the NYSDTF and bank records, as well as my conversations with the Victims, I have learned, among other things, that CARLOS DE LA TORRE, the defendant, engaged in the same type of fraudulent conduct with respect to the Victims' state taxes for the tax years 2014 through 2019. For example:

a. On or about June 19, 2018, Victim-1 gave DE LA TORRE a check from Restaurant-1 in the amount of approximately \$10,678. The check was written out to "New York State Tax," which Victim-1 gave DE LA TORRE to submit to NYSDTF to be applied against Restaurant-1's taxes.

b. DE LA TORRE, however, altered Victim-1's check by writing his own Social Security number in the memo line and then submitted that altered check to NYSDTF, along with a Form IT-

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<sup>1</sup> This is less than the amount that DE LA TORRE requested on his Form 1040 because, based on the IRS's internal calculations, DE LA TORRE submitted a total of approximately \$50,854.02 in Estimated Tax payments for tax year 2018, and owed the IRS a total of approximately \$7,994 in tax liabilities and approximately \$172.98 in penalties for tax year 2018, resulting in a total refund of approximately \$42,687.04.



2105 containing his own information, as an Estimated Tax payment to be credited toward his own account, which it was.

c. DE LA TORRE used that altered check and other checks he collected from the Victims to pay his state tax liabilities for the tax year 2018.

d. Those altered checks, however, far exceeded DE LA TORRE's state tax liabilities in 2018. Accordingly, on or about February 1, 2019, DE LA TORRE submitted a false Resident Income Tax Return, Form IT-201, for the tax year 2018, fraudulently claiming a refund in the amount of \$57,522, representing the total amount of money he stole from the Victims and submitted to NYSDTF as his own Estimated Tax payments for that tax period.

e. As a result, on or about February 22, 2019, DE LA TORRE received a refund (the "State 2018 Refund") from NYSDTF in the amount of approximately \$57,522. New York State wired the State 2018 Refund directly into Bank Account-1.

The Defendant Failed To Report The Money He Stole  
From the Victims On His Own Tax Returns

13. Based on my review of bank records for Bank Account-1, and records obtained from the IRS, I have learned, among other things, that:

a. On or about March 4, 2015, the U.S. Treasury wired CARLOS DE LA TORRE, the defendant, a refund for the tax year 2014 in the amount of approximately \$37,236.40.

b. On or about March 9, 2016, the U.S. Treasury wired DE LA TORRE a refund for the tax year 2015 in the amount of approximately \$42,679.

c. On or about March 1, 2017, the U.S. Treasury wired DE LA TORRE a refund for the tax year 2016 in the amount of approximately \$26,151.77.

d. On or about February 28, 2018, the U.S. Treasury wired DE LA TORRE a refund for the tax year 2017 in the amount of approximately \$16,377.46.

e. As noted above, on or about February 27, 2019, the U.S. Treasury wired DE LA TORRE a refund for the tax year 2018 in the amount of approximately \$42,687.04.

f. On or about March 4, 2020, the U.S. Treasury wired DE LA TORRE a refund for the tax year 2019 in the amount of approximately \$15,086.

14. Based on my review of bank records for Bank Account-1, and records obtained from NYSDTF, I have learned, among other things, that:

a. On or about March 11, 2015, NYSDTF wired CARLOS DE LA TORRE, the defendant, a refund for the tax year 2014 in the amount of approximately \$27,929.

b. On or about March 2, 2016, NYSDTF wired DE LA TORRE a refund for the tax year 2015 in the amount of approximately \$19,711.

c. On or about February 24, 2017, NYSDTF wired DE LA TORRE a refund for the tax year 2016 in the amount of approximately \$53,096.

d. On or about February 28, 2018, NYSDTF wired DE LA TORRE a refund for the tax year 2017 in the amount of approximately \$33,395.67.

e. On or about February 22, 2019, NYSDTF wired DE LA TORRE a refund for the tax year 2018 in the amount of approximately \$57,522.51.

f. On or about February 19, 2020, DE LA TORRE claimed a refund for the tax year 2019 in the amount of approximately \$40,048 but, based on the conduct discussed herein, NYSDTF stopped the issuance of that payment.

15. Based on my conversations with other IRS employees and a criminal investigator from NYSDTF, as well as my review of IRS and NYSDTF records, including CARLOS DE LA TORRE, the defendant's, own tax returns for the tax years 2014 through 2019, I have learned, among other things, that although DE LA TORRE was required to report accurately his income, tax obligations, and, any claim for a refund annually on a Form 1040, he failed to do so. Specifically, he failed to accurately report his income on his federal tax returns because he did not report the money he stole from the Victims. Moreover, he falsely claimed on his federal tax returns that he overpaid the IRS during the relevant tax year, and that therefore, he was entitled to a refund. For example:

a. DE LA TORRE's federal tax return for the tax year 2018 (the "2018 Tax Return") stated that his total income and taxable income for that period was approximately \$43,226 and \$27,227, respectively.

b. Based on that amount, DE LA TORRE's federal tax liability for that time period was approximately \$7,994, which DE LA TORRE paid with the money he stole from the Victims.

c. Had DE LA TORRE, however, reported on his 2018 Tax Return the money he had stolen from the Victims during the tax year 2018, as he was required to do, his total federal tax liability for that period would have been approximately \$18,628.

d. Moreover, on the 2018 Tax Return, DE LA TORRE falsely claimed that he had overpaid the IRS \$49,438, and that he was therefore entitled to a refund for that amount.

16. Based on my review of records obtained from the IRS and the NYSDTF, and my conversations with other IRS employees and a criminal investigator from NYSDTF, I have learned, among other things, that CARLOS DE LA TORRE, the defendant, mailed the IRS and the NYSDTF the altered checks and accompanying Estimated Tax payment forms in packages marked with a return address located in New York, New York.

17. Based on my review of bank records, and my conversations with employees at the Bank, I have learned, among other things, that the wires from the U.S. Treasury to Bank Account-1 that contained the "refunds" issued to CARLOS DE LA TORRE, the defendant, from at least in or about 2014 through at least in or about 2020, originated in Massachusetts and ended in New York, New York, where Bank Account-1 is held with the Bank.

WHEREFORE, deponent respectfully requests that a warrant issue for the arrest of CARLOS DE LA TORRE, the defendant, and that he be arrested, and imprisoned or bailed, as the case may be.

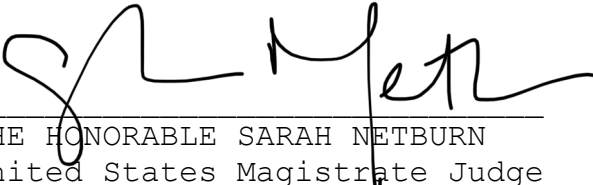
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CASEY RYAN  
Special Agent  
IRS

Sworn to me through the transmission of this Affidavit by reliable electronic means, pursuant to Federal Rules of Criminal Procedure 41(d)(3) and 4.1 this

11th day of May, 2021



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THE HONORABLE SARAH NETBURN  
United States Magistrate Judge  
Southern District of New York