

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Case No.

UNITED STATES OF AMERICA

Plaintiff,

v.

1. CURTIS L. MORRIS, and
2. RICHARD KELLOGG ARMSTRONG,

Defendant.

INDICTMENT

18 U.S.C. §287
18 U.S.C. §1341
18 U.S.C. §2

The Grand Jury charges that:

COUNTS 1- 3
(Mail Fraud)

1. From as early as in or about September 2008, and continuing at least through in or about April 2009, the exact dates being unknown to the Grand Jury, in the State and District of Colorado, and elsewhere, the defendants,

**CURTIS L. MORRIS, and
RICHARD KELLOGG ARMSTRONG,**

together, and in concert with persons known and unknown to the Grand Jury, devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent material pretenses and representations from the United

States Department of Treasury and one of its agencies, the Internal Revenue Service ("IRS"), through the submission of false claims for federal income tax refunds, as part of individual federal income tax returns filed with the IRS, that were based upon and supported by false and fictitious information about federal income taxes purportedly withheld on original issue discount income, as set forth in the federal income tax returns and as purportedly reflected on IRS Forms 1099-OID filed with the IRS.

Background

At all times material to this Indictment:

2. Original issue discount ("OID") income was a form of interest income typically realized on debt instruments that were issued at a discount to, or purchased at less than, the ultimate redemption value of the debt instrument. The IRS typically considered the holders of such discounted debt instruments to have realized yearly OID income from such instruments in amounts corresponding to a pro rated portion of the overall difference in value between the issuance or purchase price of the instrument and its redemption price.

3. The IRS required financial institutions to report OID income realized from OID instruments for a particular year, both to the IRS and to the holder of the OID instrument, through the use of IRS Form 1099-OID, a copy of which form was required to be

provided to the holder of the OID instrument for use in preparing the taxpayer's federal income tax return for the year and the original of which was to be filed by the financial institution with the IRS. While a portion of the Form 1099-OID required the financial institution to report any amounts of OID income withheld from the taxpayer for the purpose of paying over federal income taxes on behalf of the taxpayer, OID income was not generally subject to federal income tax withholdings, and Forms 1099-OID, accordingly, would typically report federal income tax withholdings on OID income only for those taxpayers who were subject to certain backup withholding requirements by the IRS.

4. Defendant CURTIS L. MORRIS was a resident of Elizabeth, Colorado who worked as an accountant, bookkeeper and business consultant and was self-employed, part-time, as an income tax preparer, doing business, through EFFN Books, Inc., under the trade name "Numbers and Beyond." Defendant MORRIS charged clients of his tax preparation business a fee for the federal income tax returns that he prepared on their behalf.

5. Beginning in or about September 2008, defendant MORRIS began to prepare a series of federal income tax returns for a number of clients claiming large federal income tax refunds as the result of large amounts of federal income taxes purportedly withheld from OID income earned by the clients (hereinafter, defendant MORRIS's "OID tax return preparation clients").

Defendant MORRIS also prepared federal income tax returns for himself and his spouse claiming federal income tax refunds based on purported federal income tax withholdings on their OID income.

6. Defendant RICHARD KELLOGG ARMSTRONG was a part-time resident of Arizona. ARMSTRONG was one of defendant MORRIS's tax preparation clients for whom MORRIS prepared federal income tax returns claiming large refunds based on purported federal income tax withholdings on OID income.

The Scheme And Artifice

7. It was part of the scheme and artifice to defraud and to obtain money and property by false and fraudulent material pretenses and representations that:

a. Defendant ARMSTRONG and defendant MORRIS's other OID tax return preparation clients would compile, for the particular tax year in question, a list of their various financial accounts, including mortgage loan accounts, personal and business loan accounts, lines of credit, credit card accounts, and bank accounts, that included account identifying information and information about loan and credit amounts.

b. The lists provided by defendant ARMSTRONG and these other OID tax preparation clients and the related account information would then be used to prepare IRS Forms 1099-OID that would falsely portray the accounts as generating large amounts of OID income for the taxpayer and correspondingly large amounts of

federal income taxes withheld on the OID income, whereas the nature of the accounts and the activity in the accounts, in reality, reflected that the taxpayers owed money to the financial institutions in question or had negligible bank interest on bank account deposits and, in any event, had not been subject to federal income tax withholdings with respect to the accounts. The amounts represented in the fabricated Forms 1099-OID as OID income realized and income taxes withheld on that income was typically derived from and corresponded to the loans or credit lines that the taxpayer had with the financial institution or, in the case of bank accounts, the amounts withdrawn or debited from the accounts over the course of the year.

c. The resulting Forms 1099-OID would be fabricated to make it appear that they had been issued by the financial institutions in question and would typically be filed with the IRS by or on behalf of defendant MORRIS's OID tax return preparation clients.

d. Defendant ARMSTRONG and the other OID tax return preparation clients of defendant MORRIS would then furnish these fabricated Forms 1099-OID to defendant MORRIS for use in preparing individual federal income tax returns. The returns that defendant MORRIS would prepare would take the federal income tax withholding amounts reported on the fabricated Forms 1099-OID and record them as tax payments that would offset and exceed his

taxpayer clients' calculated income tax liabilities for the year and thereby form the basis for their claimed federal income tax refunds.

e. Defendant MORRIS would then sign the returns as the paid preparer and forward the prepared returns to defendant ARMSTRONG and the other OID tax return preparation clients for filing with the IRS.

8. On or about November 3, 2003, as a part of the scheme and artifice to defraud and to obtain money and property by false and fraudulent material pretenses and representations, defendant ARMSTRONG caused three Amended U.S. Individual Tax Returns for him and his spouse for the years 2005 through 2007, prepared by defendant MORRIS, to be filed with the IRS. The amended returns claimed a federal income tax refund of \$582,352 for 2005, based on purported federal income tax withheld from purported OID income by financial institutions equaling that amount; \$283,746 in tax refunds for 2006, based on purported federal income tax withheld from purported OID income by financial institutions equaling that amount; and \$605,300 in tax refunds for 2007, based on purported federal income tax withheld from purported OID income by financial institutions equaling that amount.

9. On or about October 7, 2008, as a part of the scheme and artifice to defraud and to obtain money and property by false and fraudulent material pretenses and representations, defendant

MORRIS caused an Amended U.S. Individual Tax Return for him and his spouse for the year 2006, which he personally prepared, to be filed with the IRS. The amended return claimed a federal income tax refund of \$74,546, based primarily on purported federal income tax withheld from purported OID income by financial institutions equaling that amount.

10. On or about April 16, 2009, as a part of the scheme and artifice to defraud and to obtain money and property by false and fraudulent material pretenses and representations, defendant MORRIS caused a U.S. Individual Tax Return for himself for the year 2008, which he personally prepared, to be filed with the IRS. The return claimed a federal income tax refund of \$90,481, based, in substantial part, on purported federal income tax withheld from purported OID income by financial institutions totaling approximately \$132,983.

COUNT 1

11. The allegations contained in paragraphs 1 through 8 of this Indictment are hereby re-alleged as if set out in full and incorporated herein by reference.

12. On or about October 23, 2008, in the State and District of Colorado, and elsewhere, for the purpose of executing the aforesaid scheme and artifice to defraud and to obtain money and property by means of false and fraudulent material pretenses and representations, and attempting to do so, the defendants,

**CURTIS L. MORRIS, and
RICHARD KELLOGG ARMSTRONG,**

did knowingly cause, and aid and abet others to cause, to be deposited matters and things to be sent and delivered by a commercial interstate carrier, according to the direction thereon, to wit, three completed amended U.S. Income Tax Returns for the years 2005, 2006, and 2007, from 5996 Pine Ridge Drive, Elizabeth, Colorado to 30 Perkins Drive, Prescott, Arizona.

In violation of Title 18, United States Code, Sections 1341 and 2.

COUNTS 2 - 3

13. The allegations contained in paragraphs 1 through 10 of this Indictment are hereby re-alleged as if set out in full and incorporated herein by reference.

14. On or about the dates enumerated as to each count below, in the State and District of Colorado, and elsewhere, for the purpose of executing the aforesaid scheme and artifice to defraud and to obtain money and property by means of false and fraudulent material pretenses and representations, and attempting to do so, the defendant,

CURTIS L. MORRIS,

did knowingly cause to be delivered by United States mail according to the direction thereon, the following matters and things:

<u>COUNT</u>	<u>DATE</u>	<u>MAIL MATTER</u>
2	9/22/08	IRS Form 1040X Amended U.S. Individual Income Tax Return for Susan K. Morris and Curtis L. Morris, for 2006, addressed to Department of Treasury, Internal Revenue Service Center, Andover, MA 05501-0422
3	4/16/09	IRS Form 1040 U.S. Individual Income Tax Return for Curtis L. Morris, for 2008, addressed to Department of Treasury, Internal Revenue Service Center, Fresno, CA 93888-0002

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNTS 4 - 7
(False Claims)

15. The allegations contained in paragraphs 1 through 8 of this Indictment are hereby re-alleged as if set out in full and incorporated herein by reference.

16. On or about the dates enumerated as to each count below, in the State and District of Colorado, and elsewhere, the defendants,

**CURTIS L. MORRIS, and
RICHARD KELLOGG ARMSTRONG,**

made and presented, and caused to be made and presented, to the United States Treasury Department the following claims against the United States for payment, which they knew to be false, fictitious and fraudulent, by preparing and causing to be prepared on or about the indicated dates, U.S. Individual Income Tax Returns, on Forms 1040X and 1040, for Richard K. Armstrong

and Sharon L. Armstrong, for the particular tax years indicated below, which returns were presented to the United States Treasury Department, through the Internal Revenue Service, wherein they caused to be claimed refunds of taxes in the indicated amounts, knowing such claims to be false, fictitious, and fraudulent:

Count	Date	Tax Year	Form	Refund Claimed
4	10/23/08	2005	1040X	\$582,352
5	10/23/08	2006	1040X	\$283,746
6	10/23/08	2007	1040X	\$605,300
7	1/28/09	2008	1040	\$1,739,452

All in violation of Title 18, United States Code, Sections 287 and 2.

COUNTS 8 - 9
(False Claims)

17. The allegations contained in paragraphs 1 through 10 of this Indictment are hereby re-alleged as if set out in full and incorporated herein by reference.

18. On or about the dates enumerated as to each count below, in the State and District of Colorado, and elsewhere, the defendant,

CURTIS L. MORRIS,

made and presented to the United States Treasury Department the following claims against the United States for payment, which he knew to be false, fictitious and fraudulent, by preparing and mailing on the indicated dates, U.S. Individual Income Tax

Returns, on Forms 1040X and 1040, for the particular tax years and in the particular names indicated below, which returns were presented to the United States Treasury Department, through the Internal Revenue Service, wherein he caused to be claimed refunds of taxes in the indicated amounts, knowing such claims to be false, fictitious, and fraudulent:

<u>Count</u>	<u>Date</u>	<u>Tax Year</u>	<u>Form</u>	<u>Taxpayer</u>	<u>Refund Claimed</u>
8	9/22/08	2006	1040X	Susan K. Morris and Curtis L. Morris	\$74,546
9	4/16/09	2008	1040	Curtis L. Morris	\$90,481

All in violation of Title 18, United States Code, Sections 287 and 2.

A TRUE BILL:

Ink signature on file in the Clerk's Office
FOREPERSON

DAVID M. GAOUETTE
UNITED STATES ATTORNEY

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