

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSHUA SIMONSON,
a/k/a Joshua Michael of Simonson,
[DOB:02/02/1978],

and

KRISTEN SIMONSON,
a/k/a Kristen Moody,
[DOB:09/19/1977],

Defendants.

No. _____

COUNT ONE

[Both Defendants]

**18 U.S.C. § 286 (Conspiracy to Defraud
the United States)**

NMT: 10 years' Imprisonment

NMT: Twice the Pecuniary Gain or Loss

NMT: 3 years' Supervised Release

Class C Felony

COUNTS TWO through FOUR

[Def. K. Simonson: Counts 2 and 3]

[Def. J. Simonson: Count 4]

**18 U.S.C. §§ 287 and 2 (Filing False
Claims for Tax Refunds)**

NMT: 5 years' Imprisonment

NMT: Twice the Pecuniary Gain or Loss

NMT: 3 years' Supervised Release

Class D Felony

COUNTS FIVE and SIX

[Def. J. Simonson]

18 U.S.C. §§ 514 and 2

(Presenting Fictitious Instruments)

NMT: 25 years' Imprisonment (but not Life)

NMT: \$250,000 fine

NMT: 5 years' Supervised Release

Class B Felony

COUNTS SEVEN through NINE

[Def. J. Simonson]

18 U.S.C. §§ 1957 and 2

(Money Laundering > \$10,000)

NMT: 10 years' Imprisonment

NMT: \$250,000 fine

NMT: 3 years' Supervised Release

Class C Felony

) **COUNTS TEN and ELEVEN**
) [Def. K. Simonson]
) **18 U.S.C. §§ 1341 and 2 (Mail Fraud)**
) NMT: 20 year's Imprisonment
) NMT: \$250,000 Fine
) NMT: 3 Years Supervised Release
) Class C Felony
)
) \$100 Mandatory Special Assessment Per
) Count
) Order of Restitution

INDICTMENT

THE GRAND JURY CHARGES THAT:

At all times relevant to this indictment:

1. Defendants **Joshua M. SIMONSON**, and **Kristen L. SIMONSON** (a/k/a Kristen Moody), a married couple, resided at 1003 SW Whitetail Drive, Oak Grove, in the Western District of Missouri.

Background and General Allegations

2. Tax on certain bonds must be paid as interest accrues. Debt issuers provide a yearly form to their bond holders called a 1099-Original Issue Discount (“OID”). To report tax liability, interest earners submit the Form 1099-OID to the Internal Revenue Service (“IRS”) along with their income tax returns.

3. Defendants **Joshua SIMONSON** and **Kristen SIMONSON** recruited T.M., a former tax return preparer in California, to aid in the preparation and electronic filing of fraudulent federal income tax returns under their own names and social security numbers.

4. **Joshua SIMONSON** provided financial documentation to T.M. concerning the defendants’ bank accounts, credit cards, mortgage payments, and other debts.

5. With the defendant's knowledge and at their request, T.M. created and caused to be created fraudulent Forms 1040X for **Kristen SIMONSON** for taxable years 2006 and 2007, and a fraudulent Form 1040 for **Joshua SIMONSON** for 2007, as well as a fraudulent Forms 1099-OID for **Joshua** and **Kristen SIMONSON**. On the Forms 1040 and 1040X, the **SIMONSONs** claimed that they had more than \$800,000 in withheld taxes from this purported interest income.

6. In actuality, as the defendants then and there well knew, they had not earned – or paid tax on – any purported interest income. Nor had the listed banks, creditors or lenders issued them any real Forms 1099-OID. Fraudulently, the conspirators claimed as interest income on their Form 1040 and 1040X, and on fictitious Forms 1099-OID, amounts that were calculated according to an arbitrary and capricious formula – they aggregated their debts – which in no way constituted actual interest income.

7. T.M. mailed the two fraudulent individual tax return Forms 1040X to **Kristen SIMONSON** in Oak Grove, Missouri. **Kristen SIMONSON** reviewed and signed both fraudulent tax returns.

8. On or about September 19, 2008, **Kristen SIMONSON** sent her 2006 Form 1040X to the Department of the Treasury via the United States Postal Service. She fraudulently claimed on her Schedule B that Capital One Bank and Chase Bank had paid her earnings interest of \$6,600 and \$770,000, respectively. Her Form 1040X was supported by two fraudulent Forms 1099-OID showing that she had withheld for taxes 100% of that income. As a result of her fraudulent claims, **Kristen SIMONSON** received a refund check from the U.S. Treasury for \$582,277.24. The treasury check was mailed from the United States Treasury in Austin, Texas,

to **Kristen SIMONSON** in Oak Grove, in the Western District of Missouri. **Kristen SIMONSON** subsequently endorsed the check and provided it to **Joshua SIMONSON**.

9. In an effort to prevent the IRS from seizing the fraudulent refunds, the defendants moved and transferred the money. **Joshua SIMONSON** split **Kristen SIMONSON**'s fraudulently-obtained 2006 refund check of \$582,277.24 by opening up three bank accounts at United Missouri Bank ("UMB"). One was a joint checking account, and two were individual accounts in their respective names. On November 21, 2008, \$82,877.24 was deposited into the joint account. Approximately \$250,000 was deposited into each individual account.

10. On or about September 19, 2008, **Kristen SIMONSON** sent her 2007 Form 1040X to the Department of the Treasury via the United States Postal Service. She fraudulently claimed that Capital One Bank had withheld earnings interest of \$6,600. As a result, **Kristen SIMONSON** received a refund check from the U.S. Treasury for \$4,215, dated November 7, 2008. The treasury check was mailed from the United States Treasury in Austin, Texas, to **Kristen SIMONSON** in Oak Grove, in the Western District of Missouri. **Kristen SIMONSON** subsequently endorsed the check and deposited into the **SIMONSON**'s joint account at Bank of America ending 4883 on November 14, 2008.

11. On October 8, 2008, **Joshua SIMONSON**'s 2007 Form 1040 was electronically filed by T.M. on his behalf. It fraudulently claimed interest income and tax withholdings from Countrywide Home Loans and Nelnet Education Planning & Financing ("Nelnet"). **Joshua SIMONSON**'s Form 1040 was supported by a fraudulent Form 1099-OID showing \$301,050 of federal income tax withheld from Countrywide Home Loans, and \$3,032.33 from Nelnet Education Planning & Financing. As a result, **Joshua SIMONSON** received a refund check

from the U.S. Treasury for \$223,726. The check, dated October 24, 2008, was mailed from the United States Treasury in Austin, Texas, to **Joshua SIMONSON** in Oak Grove, in the Western District of Missouri.

12. On October 30, 2008, **Joshua SIMONSON** deposited his \$223,726 refund check into the **SIMONSON**'s joint account at Bank of America, ending 4883. The **SIMONSONS** purchased a \$50,529.07 sport utility vehicle by obtaining a cashier's check from the account to McCarthy Nissan, dated November 6, 2008, which constituted the proceeds of **Joshua SIMONSON**'s fraudulent return.

On November, 11, 2008, **Joshua SIMONSON** sent an email to T.M., writing:

“Last week I emailed and told you of my wife and I’s conversation with the IRS. Well, yesterday an other check arrived just as they had mentioned. These checks are now arriving like clock work!! This one was not very big but, non the less a success!! I would like to again thank you and all the girls in the office for your hard work and time. My life has been changed by all that you have done. I was also wanting to check and see if you were able to get Kristen’s 05 return reprinted and mailed out last week? We have not received it yet? I pray that you all have a Glorious day! Honorably and Respectfully, Joshua-Michael: Simonson”

13. S.D. emailed **Joshua SIMONSON** recommending that he transfer the funds in a manner designed to circumvent tracking. In an email sent to **Joshua SIMONSON** on January 24, 2009, S.D. wrote that T.M. “got a demand to return the funds.” The next day, S.D. emailed **Joshua SIMONSON** suggesting that he “begin tomorrow moving funds to my corp [Boulder Mountain]” and then S.D. would “move the funds to the guy in Washington.” Additionally, S.D. wrote that he would “set up another corp that everything will flow back to; that way, there is NO track.” **Joshua SIMONSON** responded, “please forward instructions for the transfers and let’s

get all of this moving ASAP...my only question at this point: is this set up safe from our friends?"

14. On January 29, 2009, **Joshua SIMONSON** transferred \$60,000 via wire from a joint account at Bank of America, ending 4883, into a Wells Fargo account, ending 5202, in the name of Boulder Mountain Funding Trust, an entity controlled by S.D. On January 29, 2009, **Joshua SIMONSON** made a second wire transfer of \$80,000 from a joint UMB account, ending 0444, into the same Wells Fargo Account in the name of Boulder Mountain Funding Trust.

15. The IRS sent collection letters to both defendants on January 25, 2010, indicating IRS's intention to recover the fraudulent monies. In response, on or around February 8, 2010, **Joshua SIMONSON** mailed a package to the IRS containing correspondence along with two signed, fictitious checks purportedly drawn on an account at the Federal Reserve Bank in Atlanta, Georgia, both of which contained that institution's routing number. **Kristen SIMONSON** reviewed the package before it was mailed. The checks were written in the exact amounts owed by the **SIMONSONs** for the 2006 and 2007 tax years. One fictitious check was in the amount of \$1,005,356.36, which corresponded to **Kristen SIMONSON's** social security number and amount due; and the other check was for \$371,933.81 and corresponded to **Joshua SIMONSON's** social security number and amount due. Both were signed by **Joshua SIMONSON**.

Manner and Means

As part of the conspiracy to defraud:

16. Defendants prepared and caused to be submitted to the IRS fraudulent Forms 1099 showing themselves as recipients of "Original issue discount" income, and also reporting

fraudulent amounts of “Federal income tax withheld.” Defendants knew at the time that the purported payers shown on the Forms 1099-OID had not issued them any such forms.

17. Defendants submitted and caused to be submitted to the IRS a fraudulent 2007 Form 1040, U.S. Individual Income Tax Return, for **Joshua SIMONSON**, reporting “Taxable interest” in an amount corresponding to the cumulative total of the fraudulent amounts of “Original issue discount” income shown on the Forms 1099-OID.

18. Defendants submitted and caused to be submitted to the Internal Revenue Service, Forms 1040X, Amended U.S. Individual Income Tax Returns, for 2006 and 2007, for **Kristen SIMONSON**, along with fraudulent Forms 1099-OID to support **Kristen SIMONSON**’s fraudulent claims of taxable income and fraudulent claims of federal taxes withheld, in order to claim fraudulent refunds.

19. Defendants submitted and caused to be submitted to the Internal Revenue Service, in support of the Forms 1040 and 1040X, showing fraudulent amounts of “taxable interest” and fraudulent amounts of “federal income tax withheld,” Schedules B-Interest and Ordinary Dividends, listing creditors as “payers” of interest, well knowing at the time that the taxpayers named in the Forms 1040 or 1040X had not received interest income, or income of any kind, from the purported payers. The purported payers listed in the Schedules-B were the same as the purported payers shown on the Forms 1099-OID.

20. The fraudulent Forms 1040 or 1040X, which defendants submitted and caused to be submitted to the Internal Revenue Service, claimed refunds based on false amounts of federal income tax withheld and false amounts of overpayments.

COUNT ONE
(Conspiracy to Defraud the United States)

21. The allegations in paragraphs 1 through 20 are hereby incorporated by reference as if fully set forth herein.

22. During the period from on or about June 2008, and continuing to on or about January 30, 2009, in the Western District of Missouri, and elsewhere, defendants **Joshua SIMONSON** and **Kristen SIMONSON**, and others known and unknown to the Grand Jury, did knowingly agree, combine, and conspire together, with each other, and with others, to defraud the Internal Revenue Service, an agency of the United States, Department of the Treasury, by obtaining and attempting to obtain the payment and allowance of false, fictitious and fraudulent claims for refunds of withheld income tax.

All in violation of Title 18, United States Code, Section 286.

COUNTS TWO through FOUR
(Filing False Claims for Tax Returns)

23. The allegations in paragraphs 1 through 20 are hereby incorporated by reference as if fully set forth herein.

24. On or about the dates listed below for the respective counts, in the Western District of Missouri and elsewhere, defendants **Joshua SIMONSON** and **Kristen SIMONSON**, as named below in the specific counts, made and presented, and caused to be made and presented, and aided and abetted the same, to the Internal Revenue Service, an agency of the United States Department of the Treasury, claims against the United States for payment of tax refunds, which they knew to be false, fictitious and fraudulent, by preparing and causing to be prepared, and filing and causing to be filed, purported individual income tax returns on Forms

1040, 1040A and 1040X, in their own names, wherein claims for income tax refunds for the amounts listed below in the specific counts were made, which claims defendants then and there knew to be false, fictitious, and fraudulent.

Count	Date Filed	Defendant	Name on Tax Return	Type of Return	Refund Claimed
2	09/19/08	Kristen Simonson	Kristen Simonson	1040X 2006	\$522,875
3	09/19/08	Kristen Simonson	Kristen Simonson	1040X 2007	\$4,092
4	10/08/08	Joshua Simonson	Joshua Simonson	1040 2007	\$223,726

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

COUNTS FIVE and SIX
(Uttering Fictitious Obligations)

25. The allegations in paragraphs 1 through 20 are hereby incorporated by reference as if fully set forth herein.

26. On or about the dates below, in the Western District of Missouri and elsewhere, defendant **Joshua SIMONSON**, with the intent to defraud, did present, offer, pass and utter, and attempt to do the same, false and fictitious instruments purporting and contriving through scheme or artifice to be actual securities or other financial instruments issued under the authority of the United States, that is, fictitious checks purporting to be issued under the authority of the United States Treasury, dated as listed below, in the amounts below, which fictitious checks defendant **Joshua SIMONSON** submitted to the Internal Revenue Service for the payment of estimated tax; to wit:

Count	Fictitious Check	Memo	Date	Amount
5	No. 1015, Purportedly Drawn on Federal Reserve Bank of Atlanta	XXX-XX--2404 (Joshua SIMONSON 's Social Security Number)	02/05/10	\$371,933.81
6	No. 1016, Purportedly Drawn on Federal Reserve Bank of Atlanta	XXX-XX-7917 (Kristen SIMONSON 's Social Security Number)	02/05/10	\$1,005,356.36

All in violation of Title 18, United States Code, Sections 514(a)(2) and 2.

COUNTS SEVEN and EIGHT
(Money Laundering)

27. The allegations in paragraphs 1 through 20 are hereby incorporated by reference as if fully set forth herein.

28. On or about the dates listed below, in the Western District of Missouri, and elsewhere, in furtherance of the conspiracy and as a result of the conspiracy and scheme to defraud set forth in Count One of this Indictment, the defendant, **Joshua SIMONSON**, knowingly engaged in, attempted to engage in, and aided and abetted, monetary transactions in interstate commerce in criminally derived property worth \$10,000 or more, which had been derived from the specified unlawful activities of wire and mail fraud, in that:

- a. In connection with the wire and mail fraud scheme described in Count One, the factual allegations of which are incorporated by reference as if fully set forth herein, **Kristen SIMONSON** received interstate wires and/or mailings of \$586,492, which constituted proceeds from her 2006 1040X fraudulent tax return, and **Joshua SIMONSON** received interstate wires and/or mailings of \$223,726, which constituted proceeds from his 2007 1040 fraudulent tax return;

- b. On October 30, 2008, **Joshua SIMONSON** deposited his \$223,726 refund check into the **SIMONSONS'** joint account at Bank of America, ending 4883.
- c. **Joshua SIMONSON** split **Kristen SIMONSON's** fraudulently obtained 2006 refund check of \$586,492.24 by opening up three bank accounts at UMB (a joint checking account and two individual accounts in their respective names); \$82,877.24 was deposited into the joint account ending 0444, and approximately \$250,000 was deposited into each individual account.
- d. On the below dates, **Joshua SIMONSON** initiated the below interstate wire transfers, from his bank accounts in the Western District of Missouri, to a Wells Fargo account in the name Boulder Mountain Funding Trust, ending 5202, controlled by S.D.:

COUNT	Date	Amount	From	To
7	01/29/09	\$60,000	Bank of America Joint Acct ending 4883	Wells Fargo Account ending 5202
8	01/29/09	\$80,000	UMB Joint Acct ending 0444	Wells Fargo Account ending 5202

All in violation of Title 18, United States Code, Sections 1957 and 2.

COUNT NINE
(Money Laundering)

29. The allegations in paragraphs 1 through 20 are hereby incorporated by reference as if fully set forth herein.

30. On or about the dates listed below, in the Western District of Missouri, and elsewhere, in furtherance of the conspiracy and as a result of the conspiracy and scheme to defraud set forth in Count One of this Indictment, the defendant, **Joshua SIMONSON**, knowingly engaged in, attempted to engage in, and aided and abetted, monetary transactions in interstate commerce in

criminally derived property worth \$10,000 or more, which had been derived from the specified unlawful activities of wire and mail fraud, in that:

- a. On October 30, 2008, **Joshua SIMONSON** deposited his \$223,726 fraudulently-obtained tax refund check into the **SIMONSON**'s joint account at Bank of America, ending 4883.
- b. On or about November 6, 2008, **Joshua SIMONSON** purchased a \$50,529.07 sport utility vehicle by obtaining a cashier's check from the account to McCarthy Nissan, which constituted the proceeds of **Joshua SIMONSON**'s fraudulent return.

All in violation of Title 18, United States Code, Sections 1957 and 2.

COUNT TEN
(Mail Fraud)

31. The allegations in paragraphs 1 through 20 are hereby incorporated by reference as if fully set forth herein.

32. On or about September 18, 2008, defendant **Kristen SIMONSON**, having devised the above-described scheme and artifice to defraud and to obtain money and property by means of false pretenses, with the intent to defraud and for the purpose of executing and in order to effect the scheme and artifice to defraud and to obtain money or property, did knowingly cause to be sent, delivered, and moved by United States mail, from Oak Grove, Missouri, to the Department of the Treasury in Kansas City, Missouri, her fraudulent 2006 tax return.

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

COUNT ELEVEN
(Mail Fraud)

33. The allegations in paragraphs 1 through 20 are hereby incorporated by reference as if fully set forth herein.

34. On or about September 18, 2008, defendant **Kristen SIMONSON**, having devised the above-described scheme and artifice to defraud and to obtain money and property by means of false pretenses, with the intent to defraud and for the purpose of executing and in order to effect the scheme and artifice to defraud and to obtain money or property, did knowingly cause to be sent, delivered, and moved by United States mail, from Oak Grove, Missouri, to the Department of the Treasury in Kansas City, Missouri, her fraudulent 2007 tax return.

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

A TRUE BILL.

/s/ Lawrence E. Johnson
FOREPERSON OF THE GRAND JURY

/s/ Daniel M. Nelson
Daniel M. Nelson #53885
Assistant United States Attorney

Dated: 9/21/11
Kansas City, Missouri